



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

LIGHT RAIL TRANSIT
AUTHORITY,
Petitioner,

G.R. No. 211299

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,*
HERNANDO,
LAZARO-JAVIER,
INTING,**
ZALAMEDA,
LOPEZ, M. V.,***
GAERLAN,
ROSARIO,
LOPEZ, J. Y.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

- versus -

CITY OF PASAY, represented by
the CITY TREASURER and the
CITY ASSESSOR,
Respondent.

Promulgated:

June 28, 2022

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[Signature]

DECISION

HERNANDO, J.:

Before this Court is a Petition¹ under Rule 45 of the Rules of Court, seeking to set aside the October 8, 2013 Decision² and the January 29, 2014

* On official leave but took part in the deliberation.

** On leave on official time.

*** No part.

¹ Rollo, pp. 3-24.

² Id. at 25-28. Penned by Associate Justice Mario V. Lopez (now a Member of the Court), and concurred in by Associate Justice Jose C. Reyes (a retired Member of the Court) and Associate Justice Socorro B. Inting.

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Resolution³ of the Court of Appeals (CA) CA-G.R. SP No. 129922.

The facts of the case are as follows:

From 1985 to 2001, the City of Pasay (City) assessed the Light Rail Transit Authority (LRTA) of real estate taxes on its properties consisting of lands, buildings, machineries, carriageways, and passenger terminal stations. LRTA admitted its tax liabilities and proposed to pay them on installment basis. It even requested for condonation of penalties on its arrears.⁴

However, LRTA failed to settle its outstanding obligations despite repeated demands from the City, which later issued a notice of delinquency with warrants of levy. Aggrieved, LRTA filed a Petition for *Certiorari*, Prohibition and *Mandamus*⁵ against the City, questioning its assessments before the Regional Trial Court (RTC) of Pasay, docketed as R-PSY-12-09347-CV.⁶

Citing the 2006 case of *Manila International Airport Authority v. Court of Appeals*⁷ (2006 MIAA Case), LRTA claimed that it is a government instrumentality exempt from local taxation. It is operating the light rail transit system for the Republic of the Philippines, which is the true owner of the subject real properties. It also invoked the ruling in *Ty v. Trampe*⁸ (*Ty*), which permitted immediate resort to judicial action without exhaustion of administrative remedies.⁹

Ruling of the Regional Trial Court

In its Resolution/Order¹⁰ dated January 3, 2013, the RTC of Pasay City, Branch 109, dismissed the Petition for *Certiorari*, Prohibition and *Mandamus* for being an improper remedy and for lack of merit, to wit:

Accordingly, and for reasons above discussed, the said [P]etition for *Certiorari*, Prohibition and *Mandamus* under Rule 65 of the Rules of Civil Procedure is ordered as it is hereby ordered **DISMISSED**.

SO ORDERED.¹¹

³ Id. at 29. Penned by Associate Justice Mario V. Lopez (now a Member of the Court), and concurred in by Associate Justice Jose C. Reyes (a retired Member of the Court) and Associate Justice Socorro B. Inting.

⁴ Id. at 25.

⁵ Id. at 26.

⁶ Id.

⁷ 528 Phil. 181 (2006).

⁸ 321 Phil. 81 (1995).

⁹ Id. at 101-102.

¹⁰ Records, pp. 137-139. Penned by Presiding Judge Tingaraan U. Guiling.

¹¹ Id. at 139.

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Subsequently, the RTC denied LRTA's Motion for Reconsideration¹² in an Order¹³ dated March 7, 2013, *viz.*:

The Court believes otherwise. The pending incident has long been existing since 1985 to 2003, and to claim that there is no appeal or any other plain, speedy and adequate remedy in the course of law is an admission of lapses and/or estoppel on the part of the movant.

Nonetheless, so as to open the remedy under Rule 65 of the New Rules of Court, the petitioner should have availed of the Exhaustion of Administrative Remedies and falling so, and/or denied, then the remedy under Rule 65 of the Rules of Court becomes operative on its side.

Accordingly, for no strong or new reasons to have been presented, no additional evidence in support of its motion for reconsideration, the Court believes that there is no cogent and/or urgent reason to depart from its resolution/order dated 3 January 2013, hence, Motion for Reconsideration is ordered as it is hereby ordered DENIED.

SO ORDERED.¹⁴

LRTA then appealed the RTC's Orders before the CA.¹⁵

Ruling of the Court of Appeals

On October 8, 2013, the CA denied¹⁶ the appeal of LRTA and affirmed the RTC ruling *in toto*, finding that LRTA has not exhausted all administrative remedies, and that it should not be extended a similar tax exemption accorded to the Manila International Airport Authority (MIAA) in the *2006 MIAA Case*. The CA held that LRTA was already found to be a taxable entity pursuant to the case of *LRTA v. Central Board of Assessment Appeals (2000 LRTA Case)*.¹⁷

The *fallo* of the CA Decision reads:

FOR THESE REASONS, the appeal is DENIED.

SO ORDERED.¹⁸

¹² Id. at 140-150.

¹³ Id. at 172-175. Penned by Presiding Judge Tingaraan U. Guiling

¹⁴ Id. at 175.

¹⁵ Id. at 177.

¹⁶ Id. at 25-28.

¹⁷ 396 Phil. 860 (2000).

¹⁸ *Rollo*, p. 28.

Aggrieved by the CA's ruling, LRTA filed a Motion for Reconsideration.¹⁹ However, this motion was denied by the CA in a Resolution²⁰ dated January 29, 2014.

Issues

Unperturbed, LRTA filed the instant petition with this Court, alleging the following assignment of errors:

- 1) The CA erred in ruling that LRTA failed to exhaust administrative remedies before properly resorting to the Courts.
- 2) The CA erred in ruling that LRTA is a taxable entity as ruled by this Court in the 2000 LRTA Case.
- 3) The CA erred in not declaring the LRTA a government instrumentality based on the ruling of this Court in the 2006 MIAA Case, and thus exempt from realty taxes.²¹

Our Ruling

The petition is meritorious.

An opportunity to clarify the effects of our ruling in the *2006 MIAA Case* to previous rulings involving similar issues and similarly situated entities presents itself to this Court. The *2006 MIAA Case* is significant as it explained and delineated the difference between government instrumentalities from government-owned and controlled corporations (GOCCs), particularly with regard to how their respective real properties are treated for local real property tax purposes.

At the outset, however, We must first rule on the procedural aspects of this case.

Exhaustion of Administrative Remedies

Both the RTC and the CA dismissed LRTA's petition on the ground that the latter failed to exhaust all administrative remedies before resorting to the courts. The RTC and the CA were in unison in holding that the case of *Ty* being relied upon by LRTA, does not apply in the instant case since the latter was

¹⁹ CA *rollo*, pp. 123-130.

²⁰ *Rollo*, p. 29.

²¹ *Id.* at 7-11.

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questioning the assessments themselves and not the authority of the city assessor to collect taxes. The CA, in particular, ruled as follows:

LRTA, nonetheless, did not avail of these procedures. It relied on the case of *Ty v. Trampe* in taking exception to the doctrine of primacy of administrative remedies. But the cited authority is incongruent in this case. In *Ty*, the jurisdiction was properly vested with the trial court because the issue dealt with the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. Moreover, the controversy did not involve questions of fact but only of law. In the present case, the authority of the assessor is not being assailed. Rather, the legality of the assessments is put in issue on account of the LRTA's claim that it is exempt from tax. Corollarily, in *Napocor v. Province of Quezon*, it was held that claiming exemption from realty taxation is simply raising a question of the correctness of the assessment. A claim for tax exemption, whether full or partial, does not question the authority of local assessor to assess real property tax. Verily, the petition filed before the RTC primarily involves the correctness of the assessments, which is a question of fact that is not allowed in a petition for *certiorari*, prohibition and *mandamus*. The RTC therefore appropriately dismissed the petition.²²

On the other hand, LRTA, in its petition to this Court, argues that the rule on exhaustion of administrative remedies must be set aside in light of our ruling in *Ty*. In particular, LRTA asserts that the instant petition raises primarily questions of law, and thus, the same falls under the exception to the general rule, to wit:

The circumstances of the instant case impel the disregard of the application of the general rule. In **TY et. al v. TRAMPE**, the Supreme Court gave due course to the petition for certiorari despite the fact that petitioner therein failed to exhaust administrative remedies. The Supreme Court brushed aside the rule on exhaustion of administrative remedies and gave due course to the petition since the controversy therein does not involve questions of fact but only of law, i.e. whether or not the assessor, acting solely and independently, is authorized/empowered to impose the assessment and the treasurer to collect the tax. It further held that the protest contemplated under Section 252 of RA No. 7160 is needed where there is a question as to the reasonableness of the amount of assessment.²³ (Underscoring in the original)

In the instant case, LRTA is questioning the very authority of the herein respondents to impose and collect real property tax on the properties registered in its name. It never questioned the assessments made by the city assessor or the amounts being collected by the city treasurer. A reading of its original petition would readily show that LRTA, while claiming to be a government instrumentality instead of a government-owned or controlled corporation

²² Id. at 27-28.

²³ Id. at 8.

(GOCC), is questioning the power of the assessor to assess, and the authority of the treasurer to collect, taxes against it.²⁴

We rule for LRTA.

In general, where administrative remedies are available, petitions for the issuance of the extraordinary writs should not be granted by the courts in order to give the administrative body the opportunity to decide the matter by itself correctly, and to prevent unnecessary and premature resort to courts. However, this principle of exhaustion of administrative remedies is not without exception.²⁵

Jurisprudence would reveal that the Court has set aside such rule: (1) when there is a violation of due process, (2) **when the issue involved is purely a legal question**, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) **when the rule does not provide a plain, speedy and adequate remedy**, and (11) when there are circumstances indicating the urgency of judicial intervention.²⁶

From the records, it can be clearly seen that the circumstances of the instant case necessitate that We set aside the general rule.

The issues involved in the instant petition are purely legal issues

The issues involved in this petition are purely legal issues. It is evident that from the outset, LRTA primarily intended to question the authority of the tax assessor to impose tax assessments on its property, and the authority of the treasurer to collect said tax, as LRTA claims to be a non-taxable entity. This can be seen when the LRTA deliberately chose to file the remedies of *certiorari*, prohibition and *mandamus*, instead of just filing a protest to contest the amounts in the assessment. Rule 65 of the Rules of Court provides:

²⁴ Records, pp. 2-19.

²⁵ *Banco de Oro v. Republic*, 750 Phil. 349, 381 (2015).

²⁶ *Id.* at 381-382. Emphasis supplied.

RULE 65

Certiorari, Prohibition and Mandamus

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Section 2. *Petition for prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Section 3. *Petition for mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

It must be emphasized that the very nature of a petition under Rule 65 involves questions of jurisdiction. Questions regarding jurisdiction are necessarily legal as the existence or extent of an entity's jurisdiction over a certain subject matter is determined by what is conferred by law.²⁷ Being a legal question, there was no need for the LRTA to exhaust administrative remedies, even assuming that such remedies exist.

The administrative protest under Section 226 of Republic Act No. (RA) 7160,²⁸ or the Local Government Code (LGC) is not a plain, speedy and adequate remedy

Moreover, there are no competent administrative tribunals that may grant the relief that LRTA is seeking. The questions of law interposed in this instant petition may only be appropriately addressed by the courts, and are the proper subjects of a petition for prohibition under Rule 65.

The CA erred in applying the case of *Napocor v. Province of Quezon*²⁹ (*Napocor*), as the circumstances in that case drastically differ from the instant case. As correctly pointed out by LRTA in its Motion for Reconsideration before the CA, it has not raised any issue concerning the amount being assessed, but it specifically questioned the authority of the city assessor from the very start.³⁰

To put Our pronouncements in *Napocor* in its proper perspective, it must be noted that the petitioners therein were claiming a tax exemption under Section 206 of the LGC, which provides:

Section 206. *Proof of Exemption of Real Property from Taxation.* - Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.

If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.

²⁷ *Philippine Coconut Producers Federation, Inc. v. Republic*, 679 Phil. 508, 568 (2012).

²⁸ Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991." Approved: October 10, 1991.

²⁹ 624 Phil. 738, 760-761 (2010).

³⁰ CA *rollo*, pp. 124-128.

In claiming such exemption, whether partial or total, We ruled that by holding that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim.³¹ In that case, since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252 of the LGC, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 thereof without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

In the contrast with *Napocor*, the LRTA, in filing a Petition for *Certiorari*, Prohibition and *Mandamus* with the RTC at the earliest instance, clearly intended to question the local assessor's authority to assess real property taxes on its property and the local treasurer's authority to collect such taxes. The LRTA never invoked Section 206 of the LGC, or even bother to file a protest under Section 252, as the LRTA is not merely claiming tax-exemption on some or all of its properties (which admits the local assessor's authority to assess), but it has been arguing since the beginning that both the city assessor and treasurer do not have the authority to assess and collect local real property tax on its properties, which is similar to what was being claimed in *Ty*.

The provisions of Sections 226 and 229 of RA 7160, being material to this issue, are set forth below:

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.

x x x x

Section 229. *Action by the Local Board of Assessment Appeals.* -

(a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

³¹ *Napocor v. Province of Quezon*, supra at 741.

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(b) In the exercise of its appellate jurisdiction, the Board shall have the power to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. **The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts** without necessarily adhering to technical rules applicable in judicial proceedings.

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory. (Emphasis supplied)

Verily, the protest provided for in the above is not an adequate remedy, as such protest is **limited to questioning the assessment itself, and not the authority of the assessor**. Furthermore, it is clear from the above-quoted provisions that proceedings before the Local Board of Assessment Appeals (LBAA) is limited to fact-finding, and there is no indicia under the law that the LBAA has jurisdiction to rule upon the legal issue interposed in the present controversy. It must be emphasized that LRTA is not just "unsatisfied" with the assessments against it, nor is it merely claiming tax exemption on some or all of its properties. Rather, LRTA is questioning, among others, the authority itself of the city assessor to assess its properties for real property tax purposes, given the former's alleged status as a government instrumentality.

The CA was therefore remiss in ruling that the petition entails the examination of facts, as it is evident that the question on the authority/power of the City to levy and collect real property taxes on certain properties of LRTA, in relation to LRTA's legal classification, are clearly legal questions, that only the courts have the competency and jurisdiction to resolve.

Given the foregoing, We find the application of our ruling in *Ty* to the instant case to be appropriate, and hence, give due course to the petition.

The 2000 LRTA Case must be reexamined, considering the innovative principles laid down in the 2006 MIAA Case.

With respect to the substantive portion of the controversy, the Court finds the instant petition to be meritorious.

In dismissing LRTA's petition, the RTC adopted the City's position and relied upon our ruling in the *2000 LRTA Case*. On appeal, the CA maintained a similar posture with the RTC, ruling as follows:

In any event, LRTA cannot conveniently argue that it should be extended similar exemption accorded to Manila International Airport Authority. Suffice it to say that the Supreme Court had already ruled that LRTA is a taxable entity. Although LRTA's creation was impelled by public service, its operation undeniably partakes of ordinary business. It actually uses the carriageways and terminal stations in its public utility business and earns money therefrom. More importantly, LRTA's charter does not exempt it from any real estate tax. Its exemption is limited to direct and indirect taxes, duties or fees in connection with the importation of equipment not locally available. Thus, absent clear provision exempting LRTA from real estate taxes, We adhere with the doctrine that taxation is the rule and exemption is the exception. Any claim for tax exemption must be strictly construed against the claimant.³²

On the other hand, LRTA argued that the *2000 LRTA Case*, while involving the same parties, do not involve the same issues as new facts or conditions have intervened before the second suit, furnishing a new basis for its claim and defenses. Hence, the former judgment cannot be pleaded as a bar to the subsequent action.³³

The intervening facts or conditions were not specified in the body of the instant petition, however, it can be easily inferred from the facts that the *2006 MIAA Case*, which was cited by LRTA repeatedly, to be the supervening basis that it is referring to.

The 2015 case of *Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu*, (*2015 MCIAA Case*),³⁴ involves a similar situation wherein a previous judgment already declared that the Mactan-Cebu International Airport Authority (MCIAA) is a taxable entity, only to be reversed by this Court based on our pronouncements in the *2006 MIAA Case*. In asserting their right to levy and collect real property taxes on the properties owned by MCIAA, the City of Lapu-Lapu in the *2015 MCIAA Case* relied upon this Court's ruling in the 1996 case of *Mactan-Cebu International Airport Authority (MCIAA) v. Marcos*,³⁵ (*1996 MCIAA Case*). However, while it is true that the *1996 MCIAA Case* was cited in a long line of cases, in 2006, the Court, *En Banc*, decided a case that in effect reversed the ruling in the *1996 MCIAA Case*. The Court in the *2015 MCIAA Case* held:

³² *Rollo*, p. 28.

³³ *Id.* at 10.

³⁴ *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, 759 Phil. 296 (2015).

³⁵ *Mactan-Cebu International Airport Authority v. Marcos*, 330 Phil. 392 (1996).

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The 2006 MIAA case had, since the promulgation of the questioned Decision and Resolution, reached finality and had in fact been either affirmed or cited in numerous cases by the Court. The decision became final and executory on November 3, 2006. Furthermore, the 2006 MIAA case was decided by the Court *en banc* while the 1996 MCIAA case was decided by a Division. Hence, the 1996 MCIAA case should be read in light of the subsequent and unequivocal ruling in the 2006 MIAA case.³⁶

Likewise, as pointed out by *J. Dimaampao*, LRTA had already been adjudged as a GOCC — hence a taxable entity — in the *2000 LRTA Case*. Even after the *2006 MIAA Case*, several cases still identified LRTA as a GOCC,³⁷ although it must be noted that these cases do not involve issues related to its status as an entity and its tax liability.

It was only in 2018 when this Court would have the opportunity to squarely rule on the classification of petitioner LRTA in the wake of the doctrine laid down in the *2006 MIAA Case*. In the case of *Light Rail Transit Authority vs. City of Manila, represented by the City Treasurer and the City Assessor (2018 LRTA Case)*,³⁸ LRTA filed a Petition for *Certiorari* and *Mandamus* against the City of Manila, which was poised to sell off petitioner's properties to answer for its delinquent real property tax notwithstanding its assertion that it was a government instrumentality exempt therefrom given the standards laid down in *2006 MIAA Case*. The lower courts dismissed the petition, hence, LRTA elevated the matter before this Court. In a Minute Resolution, this Court adjudged that LRTA's liability for real property tax was already settled in the *2000 LRTA Case*. In so doing, this Court apparently found the *2006 MIAA Case* doctrine inapplicable and declared that the *2000 LRTA Case* was authoritative with respect to petitioner's classification and resulting taxability.

However, about a year later, in *Light Rail Transit Authority v. Quezon City (2019 LRTA Case)*,³⁹ this Court in Division essentially ruled in the opposite, declaring that the *2000 LRTA Case* needed to be re-examined in light of the *2006 MIAA Case*, and the "present-day social milieu of great public impact." Emphatically, the Court held that the reasoning which formed the basis for the decision in the *2000 LRTA Case* "no longer holds water." The Court concluded that petitioner satisfied the requisites to be considered a government instrumentality exercising corporate powers, which was exempt from real property tax.

³⁶ *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, supra at 334-335.

³⁷ See *Light Rail Transit Authority v. Alvarez*, 801 Phil. 40 (2016); *Light Rail Transit Authority v. Mendoza*, 767 Phil. 458 (2015); *Light Rail Transit Authority v. Salvaña*, 736 Phil. 123 (2014); *Hugo v. LRTA*, 630 Phil. 145 (2010); and *Light Rail Transit Authority v. Venus, Jr.*, 520 Phil. 233 (2006).

³⁸ G.R. No. 212925 (Notice), June 18, 2018.

³⁹ G.R. No. 221626, October 9, 2019.

Given this glaring conflict between the *2018 LRTA Case* and *2019 LRTA Case*, primarily on how these cases view the effect of the *2006 MIAA Case* to the *2000 LRTA Case*, the Court is behooved by its constitutional mandate as the final arbiter of the law to resolve the issue once and for all.

Pertinently, while the *2019 LRTA Case* correctly held that the standards laid down in the *2006 MIAA Case* to be applicable to LRTA, the said *2006 MIAA Case* does not specifically pertain to LRTA. To add to the confusion, there was already a prior case — the *2000 LRTA Case* — where the same issue on petitioner's liability for real property was squarely raised and tackled by the Court. To date, there is no *En Banc* case which expressly overturned the pronouncement in the *2000 LRTA Case*.

It is an elementary principle that no doctrine laid down by the Court may be modified or reversed except by the Court sitting *En Banc*.⁴⁰ This rule finds special application in this case given that as recent as 2018, the Court still gave some semblance of validity to the *2000 LRTA Case* through its Minute Resolution in the *2018 LRTA Case*.

Moreover, the doctrine of *stare decisis* demands that the Court adhere to precedent once it lays down a principle of law as applicable to a certain state of facts and “apply it to all future cases, where facts are substantially the same; regardless of whether the parties and property are the same.”⁴¹ The doctrine rests on sound public policy to secure certainty and stability of judicial decisions.⁴² As a result, only a strong or compelling reason can operate to impel the Court to abandon a prior ruling.⁴³

This Court finds such a reason exists in this case given the revolutionary principles espoused by the *2006 MIAA Case*. In fact, due to these principles, other similarly situated entities were subsequently re-classified as government instrumentalities exercising corporate powers, such as the Mactan-Cebu International Airport Authority,⁴⁴ and the Bases Conversion and Development Authority,⁴⁵ despite earlier rulings to the contrary.

In a similar vein, it must be reiterated that, regardless of earlier rulings, the prevailing doctrine with regard to the legal classification of government corporate entities (as either government instrumentalities or GOCCs), are the

⁴⁰ CONSTITUTION, ARTICLE VIII, Section 4(3).

⁴¹ *Dela Cruz v. Ochoa Jr.*, 824 Phil. 269, 280 (2018), citing *Ty v. Banco Filipino Savings and Mortgage Bank*, 689 Phil. 603, 614 (2012).

⁴² *Id.*

⁴³ *Lucas v. Coca-Cola Bottlers Phils., Inc.*, G.R. No. 213816, December 2, 2020.

⁴⁴ *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, supra note 35.

⁴⁵ *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, G.R. No. 205466, January 11, 2021; *Republic v. Heirs of Bernabe*, G.R. No. 237663, October 6, 2020; and *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, 833 Phil. 734 (2018).

standards laid down in the *2006 MIAA Case*. Thus, the *2000 LRTA Case*, which was decided by a Division, should be reexamined by this Court sitting *en banc*, in light of the significant legal developments ushered in by the *2006 MIAA Case*, which was also decided *En Banc*.

LRTA is a government instrumentality like MIAA, among others

In the *2006 MIAA Case*, this Court discussed the definition of a government instrumentality and a GOCC with regard to the Administrative Code of 1987 (Administrative Code). Section 2(10) of the Introductory Provisions of the Administrative Code defines an “instrumentality” as follows:

SEC. 2. *General Terms Defined.*- x x x

x x x x

(10) *Instrumentality* refers to any agency of the National Government, not integrated within the department framework vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. **This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.** (Emphasis supplied)

The definition of “instrumentality” under the above-quoted provision uses the phrase “includes x x x [GOCCs],” which means that a government “instrumentality” may or may not be a “GOCC.” Obviously, the term government “instrumentality” is **broader** than the term “GOCC,” which has a separate definition under Section 2(13) of the Introductory Provisions of the Administrative Code.⁴⁶

SEC. 2. *General Terms Defined.*- x x x

(13) *Government-owned or controlled corporation* refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock: *Provided*, That government-owned or controlled corporations may further be categorized by the Department of Budget, the Civil Service Commission, and the Commission on Audit for the purpose of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.

⁴⁶ *Manila International Airport Authority v. Court of Appeals*, supra note 7 at 210-211.

The fact that two terms have separate definitions means that while a government “instrumentality” may include a “GOCC,” there may be a government “instrumentality” that will not qualify as a “GOCC.”⁴⁷

A close scrutiny of the definition of “GOCC” in Section 2(13) will show that LRTA would not fall under such definition. **LRTA is a government “instrumentality” that does not qualify as a “GOCC.”** As explained in the *2006 MIAA Case*:

A government-owned or controlled corporation must be “**organized as a stock or non-stock corporation.**” MIAA is not organized as a stock or non-stock corporation. MIAA is not a stock corporation because it has **no capital stock divided into shares.** MIAA has no stockholders or voting shares. x x x

x x x x

Section 3 of the Corporation Code defines a stock corporation as one whose “**capital stock is divided into shares and x x x authorized to distribute to the holders of such shares dividends x x x.**” MIAA has capital but it is not divided into shares of stock. MIAA has no stockholders or voting shares. Hence, MIAA is not a stock corporation.

MIAA is also not a non-stock corporation because it has no members. Section 87 of the Corporation Code defines a non-stock corporation as “one where no part of its income is distributable as dividends to its members, trustees or officers.” A non-stock corporation must have members. Even if we assume that the Government is considered as the sole member of MIAA, this will not make MIAA a non-stock corporation. Non-stock corporations cannot distribute any part of their income to their members. Section 11 of the MIAA Charter mandates MIAA to remit 20% of its annual gross operating income to the National Treasury. This prevents MIAA from qualifying as a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are “organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers.” MIAA is not organized for any of these purposes. MIAA, a public utility, is organized to operate an international and domestic airport for public use.

Since MIAA is neither a stock nor a non-stock corporation, MIAA does not qualify as a government-owned or controlled corporation. What then is the legal status of MIAA within the National Government?

MIAA is a **government instrumentality** vested with corporate powers to perform efficiently its governmental functions. MIAA is like any other government instrumentality, the only difference is that MIAA is vested with corporate powers. x x x

x x x x

⁴⁷ Id.

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When the law vests in a government instrumentality corporate powers, the instrumentality does not become a corporation. Unless the government instrumentality is organized as a stock or non-stock corporation, it remains a government instrumentality exercising not only governmental but also corporate powers. Thus, MIAA exercises the governmental powers of eminent domain, police authority and the levying of fees and charges. At the same time, MIAA exercises "all the powers of a corporation under the Corporation Law, insofar as these powers are not inconsistent with the provisions of this Executive Order."⁴⁸ (Emphasis in the original)

From the foregoing, it is apparent that the primary test in determining whether an entity is a GOCC is how it was organized. In other words, the *2006 MIAA Case* provides that unless a government instrumentality was organized as a stock or non-stock corporation, then it must not be considered as a GOCC as defined in the Administrative Code.

A cursory perusal of the LRTA charter would reveal that it was not organized as a stock corporation because it has no capital stock divided into shares. In fact, the LRTA has no stockholders or voting shares. Article 6, Section 15 of Executive Order No. (EO) 603⁴⁹ or the LRTA Charter which created the LRTA, provides:

Sec. 15. *Capitalization.* The Authority shall have an authorized capital of FIVE HUNDRED MILLION PESOS (P500,000,000.00) which shall be fully subscribed by the Republic of the Philippines and other government institutions, corporations, instrumentalities, and agencies, whether national or local, within the framework of their respective charters. The authorized capital shall be used for the purpose of financing the Authority's business transactions and shall be paid as follows:

(1) The sum of TWO HUNDRED MILLION PESOS (P200,000,000.00) to be taken from the general fund in the National Treasury out of appropriations available for the purpose.

(2) The balance of the authorized capital amounting to THREE HUNDRED MILLION PESOS (P300,000,000.00) shall be released from the National Treasury out of appropriations available for the purpose, or subscribed and paid by government institutions as may be authorized pursuant to this Section, with the approval of the President.

To reiterate, Section 3 of the Corporation Code defines a stock corporation as one whose "*capital stock is divided into shares and x x x authorized to distribute to the holders of such shares dividends x x x.*" From the above, it is clear that LRTA has capital but it is not divided into shares of stock. LRTA has no stockholders or voting shares. Hence, LRTA is not a stock corporation.

⁴⁸ Id. at 210-212.

⁴⁹ Entitled "CREATING A LIGHT RAIL TRANSIT AUTHORITY, VESTING THE SAME WITH AUTHORITY TO CONSTRUCT AND OPERATE THE LIGHT RAIL TRANSIT (LRT) PROJECT AND PROVIDING FUNDS THEREFOR," dated July 12, 1980.

The LRTA is also not a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are “organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agricultural and like chambers.” LRTA was not organized for any of these purposes. LRTA, a public utility, was organized to be “primarily responsible for the construction, operation, maintenance, and/or lease of light rail transit systems in the Philippines, giving due regard to the reasonable requirements of the public transportation system of the country” for public use.⁵⁰

Moreover, the same LRTA charter would reveal that the LRTA has no members. Section 87 of the Corporation Code defines a non-stock corporation as “one where no part of its income is distributable as dividends to its members, trustees or officers.” This implies that a non-stock corporation must have members, which the LRTA does not have.

Since the LRTA is neither a stock nor a non-stock corporation, LRTA does not qualify as a GOCC. As pointed out by *J. Dimaampao*, under the doctrine laid down in the *2006 MIAA Case*, this alone already qualifies LRTA as a government instrumentality, but if only to further refine this, the relevant provisions of the Administrative Code must be read in conjunction with Section 3(n) of the GOCC Governance Act of 2011⁵¹ that was obviously enacted after the *2006 MIAA Case*, and provides for a more specific definition of government instrumentalities, to wit:

(n) *Government Instrumentalities with Corporate Powers (GICP)/Government Corporate Entities (GCE)* refer to instrumentalities or agencies of the government, which are neither corporations nor agencies integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter including, but not limited to, the following: the Manila International Airport Authority (MIAA), the Philippine Ports Authority (PPA), the Philippine Deposit Insurance Corporation (PDIC), the Metropolitan Waterworks and Sewerage System (MWSS), the Laguna Lake Development Authority (LLDA), the Philippine Fisheries Development Authority (PFDA), the Bases Conversion and Development Authority (BCDA), the Cebu Port Authority (CPA), the Cagayan de Oro Port Authority, the San Fernando Port Authority, the Local Water Utilities Administration (LWUA) and the Asian Productivity Organization (APO). (Emphasis supplied)

x x x x

⁵⁰ *Id.*, Section 2, Article 1 of E.O. No. 603.

⁵¹ AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR - CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES.” Approved: June 6, 2011.

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From the foregoing, the following elements in order to qualify as a government instrumentality with corporate powers (GICP) or government corporate entity (GCE) can be distilled, to wit:

- (a) agency of the government;
- (b) neither a corporation nor agency integrated within the departmental framework;
- (c) vested by law with special functions or jurisdiction;
- (d) endowed with some if not all corporate powers;
- (e) administering special funds; and
- (f) enjoying operational autonomy usually through a charter.

As applied in this case, LRTA still clearly qualifies as a GICP/GCE under the definition provided in Section 3(n) of the GOCC Governance Act of 2011.

LRTA is an agency of the government

An agency of the government refers to “any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation, or a local government or a distinct unit therein.”⁵² There is no dispute that LRTA is a unit of the government. It performs public service, it is attached to the Department of Transportation (DOTr), and its authorized capital is fully subscribed by the Republic of the Philippines.⁵³

LRTA is neither a corporation nor is it integrated within the departmental framework

As previously explained, LRTA is not a GOCC precisely because it is neither a stock nor non-stock corporation. LRTA is also not integrated within the departmental framework despite being attached to the DOTr, as will be discussed in detail later.

LRTA is vested with special functions

LRTA is given the primary responsibility for the “construction, operation, maintenance, and/or lease of light rail transit systems in the Philippines, giving due regard to the reasonable requirements of the public transportation system of the country.”⁵⁴

⁵² Section 2(4) of the Introductory Provisions of the Administrative Code of 1987.

⁵³ Sections 2 and 15 of Executive Order No. 603, Series of 1980, as amended.

⁵⁴ Section 2, Executive Order No. 603, Series of 1980, as amended.

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LRTA is endowed with corporate powers

LRTA was specifically created as a “corporate body” that is capable, among others, to prescribe and modify its own by-laws, to sue and be sued, and to contract any obligation.⁵⁵

LRTA administers special funds

LRTA is capitalized by up to ₱3,000,000,000.00,⁵⁶ and is tasked to manage its own revenues to meet its expenditures,⁵⁷ to contract domestic and foreign loans to carry out its operations,⁵⁸ and to establish a sinking fund to redeem bonds it issues.⁵⁹

LRTA enjoys operational autonomy through its charter

As held in the *2019 LRTA Case*, LRTA exists by virtue of a charter and its powers and functions are vested in and exercised by its Board of Directors independent of outside interference.

Undoubtedly, in light of the ruling in *2006 MIAA Case* and the statutory definition under the GOCC Governance Act of 2011, We conclude that LRTA is a government instrumentality vested with corporate powers to perform efficiently its governmental functions. LRTA is like any other government instrumentality, the only difference is that LRTA is vested with corporate powers.

LRTA is merely an attached agency to the DOTr.

The City posits a theory that LRTA cannot be a government instrumentality since the latter is allegedly integrated within the department framework, and is thus inconsistent with the definition of a government instrumentality in the Administrative Code, to wit:

Obviously, for a government agency to be considered as an instrumentality, it must **not be integrated within a department framework, meaning it must not be included, incorporated or attached to any department under the**

⁵⁵ Sections 2 and 4, Executive Order No. 603, Series of 1980, as amended.

⁵⁶ Section 15, Executive Order No. 603, Series of 1980, as amended by Executive Order No. 830, Series of 1982.

⁵⁷ Section 2, Executive Order No. 603, Series of 1980, as amended.

⁵⁸ Sections 6 and 7, Executive Order No. 603, Series of 1980, as amended.

⁵⁹ Section 6, Executive Order No. 603, Series of 1980, as amended.

executive branch of the government. As it specifically provided in its charter, LRTA is attached to the Ministry of Transportation and Communication (now Department of Transportation and Communication, DOTC, for brevity). This is likewise affirmed in Executive Order No. 210 dated 7 July 1987 amending E.O. 603 to conform with the reorganization of the DOTC to which the LRTA is attached.⁶⁰ (Emphasis in the original)

Section 2 (10) of the Introductory Provisions of the Administrative Code defines a government instrumentality as:

(10) Instrumentality refers to any agency of the National Government, not integrated within the department framework vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.

The City's myopic interpretation of the above provision holds no water and is actually contradictory to its own position that LRTA is a GOCC. In line with Our pronouncements in the *2006 MIAA Case*, We must stress that the term government instrumentality is a broader and more general term than GOCC, and hence should be interpreted in such light. A government instrumentality may or may not be a GOCC, but a GOCC is a government instrumentality by definition. By claiming that LRTA is a GOCC, the City is already admitting that the LRTA is a government instrumentality so there is no sense in claiming otherwise. The only issue at this juncture is whether or not the LRTA, a government instrumentality, falls under the definition of a GOCC.

If only to emphasize the absurdity of interpreting Section 2(10) of the Introductory Provisions of the Administrative Code to mean that attached agencies are "integrated within the department framework," should this Court hypothetically apply respondent's theory, then all the attached agencies to the DOTr can no longer be considered as government instrumentalities, including the MIAA, MCIAA, Philippine National Railways (PNR), Philippine Ports Authority (PPA), etc.

For reference, it must be noted that We have already ruled several attached agencies, including the MIAA and MCIAA (both are agencies attached to the DOTr), to be government instrumentalities.

Applying the *2006 MIAA Case* ruling, the Court, in *Philippine Fisheries Development Authority v. Court of Appeals*,⁶¹ held the Philippine Fisheries Development Authority (PFDA), an agency attached to the Department of Agriculture, to be a government instrumentality, to wit:

⁶⁰ *Rollo*, p. 78.

⁶¹ 555 Phil. 661 (2007).

On the basis of the parameters set in the *MIAA* case, the Authority should be classified as an instrumentality of the national government. As such, it is generally exempt from payment of real property tax, except those portions which have been leased to private entities.

In the *MIAA* case, petitioner Philippine Fisheries Development Authority was cited as among the instrumentalities of the national government. x x x.

x x x x

Indeed, the Authority is not a GOCC but an instrumentality of the government. The Authority has a capital stock but it is not divided into shares of stocks. Also, it has no stockholders or voting shares. Hence, it is not a stock corporation. Neither [is it] a non-stock corporation because it has no members.

The Authority is actually a national government instrumentality which is defined as an agency of the national government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. When the law vests in a government instrumentality corporate powers, the instrumentality does not become a corporation. Unless the government instrumentality is organized as a stock or non-stock corporation, it remains a government instrumentality exercising not only governmental but also corporate powers.

Thus, the Authority which is tasked with the special public function to carry out the government's policy "to promote the development of the country's fishing industry and improve the efficiency in handling, preserving, marketing, and distribution of fish and other aquatic products," exercises the governmental powers of eminent domain, and the power to levy fees and charges. At the same time, the Authority exercises "the general corporate powers conferred by laws upon private and government-owned or controlled corporations."

x x x x

In light of the foregoing, the Authority should be classified as an instrumentality of the national government which is liable to pay taxes only with respect to the portions of the property, the beneficial use of which were vested in private entities. When local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments. The rule is that a tax is never presumed and there must be clear language in the law imposing the tax. Any doubt whether a person, article or activity is taxable is resolved against taxation. This rule applies with greater force when local governments seek to tax national government instrumentalities.

Thus, the real property tax assessments issued by the City of Iloilo should be upheld only with respect to the portions leased to private persons. In case the Authority fails to pay the real property taxes due thereon, said portions cannot be sold at public auction to satisfy the tax delinquency. x x x.

x x x x

In sum, the Court finds that the Authority is an instrumentality of the national government, hence, it is liable to pay real property taxes assessed by the City of Iloilo on the IFPC only with respect to those portions which are leased to private entities. Notwithstanding said tax delinquency on the leased portions of the IFPC, the latter or any part thereof, being a property of public domain, cannot be sold at public auction. This means that the City of Iloilo has to satisfy the tax delinquency through means other than the sale at public auction of the IFPC.⁶²

Another government instrumentality specifically mentioned in the *2006 MIAA Case* was the PPA, which is an agency attached to the DOTr, similar with the LRTA. Hence, in *Curata v. Philippine Ports Authority*,⁶³ the Court held that the PPA is similarly situated as MIAA, and ruled in this wise:

This Court's disquisition in *Manila International Airport Authority v. Court of Appeals* – ruling that MIAA is not a government-owned and/or controlled corporation (GOCC), but an instrumentality of the National Government and thus exempt from local taxation, and that its real properties are owned by the Republic of the Philippines — is instructive. x x x. These findings are squarely applicable to PPA, as it is similarly situated as MIAA. *First*, PPA is likewise not a GOCC for not having shares of stocks or members. *Second*, the docks, piers and buildings it administers are likewise owned by the Republic and, thus, outside the commerce of man. *Third*, PPA is a mere trustee of these properties. Hence, like MIAA, PPA is clearly a government instrumentality, an agency of the government vested with corporate powers to perform efficiently its governmental functions.

Therefore, an undeniable conclusion is that the funds of PPA partake of government funds, and such may not be garnished absent an allocation by its Board or by statutory grant. If the PPA funds cannot be garnished and its properties, being government properties, cannot be levied via a writ of execution pursuant to a final judgment, then the trial court likewise cannot grant discretionary execution pending appeal, as it would run afoul of the established jurisprudence that government properties are exempt from execution. What cannot be done directly cannot be done indirectly.⁶⁴

Given the forgoing, the City's arguments are utterly unmeritorious for having no legal basis as jurisprudence would clearly show that being an attached agency to a Department does not equate to being "integrated within the departmental framework."

The LRTA, being an instrumentality of the national government, cannot be taxed by local governments

⁶² Id. at 668-674.

⁶³ 608 Phil. 9 (2009).

⁶⁴ Id. at 87.

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A government instrumentality like LRTA falls under Section 133(o) of the Local Government Code, which states:

SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* – **Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:**

x x x x

(o) **Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities** and local government units. (Emphasis and underscoring supplied)

Section 133(o) recognizes the basic principle that local governments cannot tax the national government, as the former's power to tax is, historically, merely delegated by the latter. While the 1987 Constitution now includes taxation as one of the powers of local governments, local governments may only exercise such power "subject to such guidelines and limitations as the Congress may provide."⁶⁵

We reiterate our ruling in the *2006 MIAA Case*, which succinctly explains the rule on the local governments' power to tax:

When local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments. The rule is that a tax is never presumed and there must be clear language in the law imposing the tax. Any doubt whether a person, article or activity is taxable is resolved against taxation. This rule applies with greater force when local governments seek to tax national government instrumentalities.

Another rule is that a tax exemption is strictly construed against the taxpayer claiming the exemption. However, when Congress grants an exemption to a national government instrumentality from local taxation, such exemption is construed liberally in favor of the national government instrumentality. As this Court declared in *Maceda v. Macaraig, Jr.*:

The reason for the rule does not apply in the case of exemptions running to the benefit of the government itself or its agencies. In such case the practical effect of an exemption is merely to reduce the amount of money that has to be handled by government in the course of its operations. For these reasons, provisions granting exemptions to government agencies may be construed liberally, in favor of non tax-liability of such agencies.

There is, moreover, no point in national and local governments taxing each other, unless a sound and compelling policy requires such transfer of public funds from one government pocket to another.

⁶⁵ *Manila International Airport Authority v. Court of Appeals*, supra note 7 at 214.

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There is also no reason for local governments to tax national government instrumentalities for rendering essential public services to inhabitants of local governments. **The only exception is when the legislature clearly intended to tax government instrumentalities for the delivery of essential public services for sound and compelling policy considerations.** There must be express language in the law empowering local governments to tax national government instrumentalities. Any doubt whether such power exists is resolved against local governments.

Thus, Section 133 of the Local Government Code states that “**unless otherwise provided**” in the Code, local governments cannot tax national government instrumentalities. As this Court held in *Basco v. Philippine Amusements and Gaming Corporation*:

The states have no power by taxation or otherwise, to retard, impede, burden or in any manner control the operation of constitutional laws enacted by Congress to carry into execution the powers vested in the federal government. (*McCulloch v. Maryland*, 4 Wheat 316, 4 L. Ed. 579)

This doctrine emanates from the “supremacy” of the National Government over local governments.

Justice Holmes, speaking for the Supreme Court, made reference to the entire absence of power on the part of the States to touch, in that way (taxation) at least, the instrumentalities of the United States (*Johnson v. Maryland*, 254 US 51) and it can be agreed that *no state or political subdivision can regulate a federal instrumentality in such a way as to prevent it from consummating its federal responsibilities, or even to seriously burden it in the accomplishment of them.* (Antieau, *Modern Constitutional Law*, Vol. 2, p. 140, italics supplied)

Otherwise, mere creatures of the State can defeat National policies thru extermination of what local authorities may perceive to be undesirable activities or enterprise using the power to tax as “a tool for regulation” (*U.S. v. Sanchez*, 340 US 42).

The power to tax which was called by Justice Marshall as the “power to destroy” (*McCulloch v. Maryland*, supra) cannot be allowed to defeat an instrumentality or creation of the very entity which has the inherent power to wield it.⁶⁶

Clearly, the general rule that tax exemption is strictly construed against the taxpayer claiming the exemption does not apply in the instant case, as the legislature itself created an exemption to national government instrumentalities from local taxation. Thus, such exemption is construed liberally in favor of national government instrumentalities, which includes LRTA.

⁶⁶ Id. at 214-216.

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The properties owned by LRTA, a national government instrumentality, are exempt from real property taxation

The properties of LRTA are of public dominion

The properties of LRTA are properties of public dominion and therefore owned by the State or the Republic of the Philippines. The Civil Code provides:

ARTICLE 419. Property is either of public dominion or of private ownership.

ARTICLE 420. **The following things are property of public dominion:**

(1) **Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;**

(2) **Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth.**

ARTICLE 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property.

ARTICLE 422. Property of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State. (Emphasis supplied)

No one can dispute that properties of public dominion mentioned in Article 420 (1) of the Civil Code, such as “roads, canals, rivers, torrents, ports and bridges constructed by the State,” are owned by the State. While there is no specific mention of “rail roads” or “rail road tracks,” the wording of the said provision permits inclusion of other properties **of similar character**.

There is no question that the Light Rail Transit System (LRT) is devoted to public use because the same **was constructed with the intent of providing mass transportation to the people to alleviate the traffic and transportation situation in Metro Manila**. Rail roads are of a similar nature with roads, as both are man-made constructions on land to facilitate the passage of certain vehicles. In fact, the LRT’s rail roads and terminals are anchored at certain points, on public roads, similar with elevated highways.

The mere fact that LRTA collects fees and other charges from the public does not remove the character of the rail roads and terminals as properties for public use. The operation by the government of an elevated highway or

expressway with a toll does not change the character of the road as one for public use. Someone must pay for the maintenance of the road, either the public indirectly through the taxes they pay the government, or only those among the public who actually use the road through the toll fees they pay upon using the road. In fact, the tollway system is a more efficient and equitable manner of taxing the public for the maintenance of public roads.⁶⁷

The charging of fees to the public does not determine the character of the property whether it is of public dominion or not. Article 420 of the Civil Code defines property of public dominion as one “intended for public use.” Even if the government collects toll fees, the road is still “intended for public use” if anyone can use the road under the same terms and conditions as the rest of the public. The charging of fees, the limitation on the kind of vehicles that can use the road, the speed restrictions and other conditions for the use of the road do not affect the public character of the road.⁶⁸

The fees that the LRTA charges to passengers constitute the bulk of the income that maintains the operations of LRTA and the LRT. The collection of such fees does not change the character of the LRT as a mode of mass transportation for public use. Such fees are often termed user’s tax. This means taxing those among the public who actually use a public facility instead of taxing all the public including those who never use the particular public facility. A user’s tax is more equitable — a principle of taxation mandated in the 1987 Constitution.⁶⁹

**As properties of public dominion,
they indisputably belong to the
State or the Republic of the
Philippines**

**The rail roads and terminals,
among other properties of the
LRTA, are not merely
patrimonial property as they
were intended for public use and
public service**

Even assuming *arguendo* that LRT was not constructed for public use, these properties are owned by State and are clearly intended for some public service, which falls under Article 420 (2) of the Civil Code.

⁶⁷ Id. at 217.

⁶⁸ Id.

⁶⁹ Id.

In this regard, the records would show that the LRT, with all its rail roads and terminals, are essentially constructed by the State through the LRTA, in accordance with the State's transportation policy laid down in the LRTA charter. It was undisputed that the LRTA acquired the subject properties through expropriation proceedings, and that the national government has been subsidizing the LRTA for the payment of its loans and interest payments for capital intensive projects such as the LRT Line 1 (Baclaran-Roosevelt).⁷⁰ In fact, if only to show how much the LRTA is reliant on the national government, the said LRT Line 1 would have ceased operation if not for the national government's subsidies amounting to ₱5.895 billion.⁷¹ Thus, We agree with LRTA's position that the real owner of these properties is actually the State, especially considering the fact that said properties could not have been obtained without the use of the State's inherent power of eminent domain, which it merely delegated to the LRTA as its agent.

Thus, the inescapable conclusion is that the properties of the LRTA are not merely patrimonial properties, but are properties of the public dominion that cannot be subjected to real property tax.

LRTA's properties are outside the commerce of man

As discussed extensively above, the properties of LRTA are devoted to public use, and thus, are properties of public dominion, which are outside the commerce of man. The Court has ruled repeatedly that properties of public dominion are outside the commerce of man. We ruled in the *2006 MIAA Case*:

As early as 1915, this Court already ruled in *Municipality of Cavite v. Rojas* that properties devoted to public use are outside the commerce of man, thus:

According to Article 344 of the Civil Code: "Property for public use in provinces and in towns comprises the provincial and town roads, the squares, streets, fountains, and public waters, the promenades, and public works of general service supported by said towns or provinces."

The said Plaza Soledad being a promenade for public use, the municipal council of Cavite could not in 1907 withdraw or exclude from public use a portion thereof in order to lease it for the sole benefit of the defendant Hilaria Rojas. In leasing a portion of said plaza or public place to the defendant for private use the plaintiff municipality exceeded its authority in the exercise of its powers by executing a contract over a thing of which it could not dispose, nor is it empowered so to do.

⁷⁰ *Rollo*, pp.17-20.

⁷¹ *Id.* at 63.

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The Civil Code, Article 1271, prescribes that everything which is not outside the commerce of man may be the object of a contract, and plazas and streets are **outside of this commerce**, as was decided by the Supreme Court of Spain in its decision of February 12, 1895, which says: “**Communal things that cannot be sold because they are by their very nature outside of commerce are those for public use, such as the plazas, streets, common lands, rivers, fountains, etc.**” xxx (underscoring in the original)

Again in *Espiritu v. Municipal Council*, the Court declared that properties of public dominion are outside the commerce of man:

x x x Town plazas are **properties of public dominion**, to be devoted to public use and to be made available to the public in general. They are **outside the commerce of man** and cannot be disposed of or even leased by the municipality to private parties. While in case of war or during an emergency, town plazas may be occupied temporarily by private individuals, as was done and as was tolerated by the Municipality of Pozorrubio, when the emergency has ceased, said temporary occupation or use must also cease, and the town officials should see to it that the town plazas should ever be kept open to the public and free from encumbrances or illegal private constructions. (emphases in the original)

The Court has also ruled that property of public dominion, being outside the commerce of man, cannot be the subject of an auction sale.

Properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures and auction sale. This will happen if the City of Parañaque can foreclose and compel the auction sale of the 600-hectare runway of the MIAA for non-payment of real estate tax.⁷²

From the above, there is no reason why the same principle explained above should not be applied to LRTA’s properties, which are of the public dominion.

Real property owned by the State is not taxable

Section 234(a) of the LGC exempts from real property tax any “[r]eal property owned by the Republic of the Philippines.” Section 234(a) provides:

SEC. 234. *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:

- (a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;

⁷² Id. at 218-219.

x x x x.

This exemption should be read in relation with Section 133(o) of the same Code, which prohibits local governments from imposing “[t]axes, fees or charges of any kind on the National Government, its agencies and **instrumentalities** x x x.” The real properties owned by the Republic of the Philippines are titled either in the name of the Republic itself, or in the name of agencies or instrumentalities of the National Government. The Administrative Code allows real property owned by the Republic to be titled in the name of agencies or instrumentalities of the national government. Such real properties remain owned by the Republic and continue to be exempt from real estate tax.⁷³

The Republic may grant the beneficial use of its real property to an agency or instrumentality of the national government. This happens when title of the real property is transferred to an agency or instrumentality even as the Republic remains the owner of the real property. Such arrangement does not result in the loss of the tax exemption privilege. Section 234(a) of the Local Government Code states that real property owned by the Republic loses its tax exemption only if the “beneficial use thereof has been granted, for consideration or otherwise, to a **taxable person**.”⁷⁴ LRTA, as a government instrumentality, is not a taxable person under Section 133(o) of the LGC. Thus, even if we assume that the Republic has granted to LRTA the beneficial use of the LRT properties, such fact does not make these real properties subject to real estate tax.

However, portions of the LRT properties that LRTA leases to private entities are not exempt from real estate tax. For example, the land area occupied by private concessionaires in certain LRT lines and terminals should be subject to real estate tax. In such a case, LRTA has granted the beneficial use of such land area for a consideration to a **taxable person** and therefore such land area is subject to real estate tax, which, if only to be clear and as pointed out by *J. Caguioa*, must consequently be paid by said taxable person; not LRTA. In *Lung Center of the Philippines v. Quezon City*,⁷⁵ the Court ruled:

Accordingly, we hold that the portions of the land leased to private entities as well as those parts of the hospital leased to private individuals are not exempt from such taxes. On the other hand, the portions of the land occupied by the hospital and portions of the hospital used for its patients, whether paying or non-paying, are exempt from real property taxes.⁷⁶

To summarize, under Section 2(10) and (13) of the Introductory Provisions of the Administrative Code, which governs the legal relation and status of government units, agencies and offices within the entire government machinery, LRTA is a government instrumentality, and not a GOCC. Under Section 133(o)

⁷³ Id. at 224.

⁷⁴ Id.

⁷⁵ 477 Phil. 141 (2004).

⁷⁶ Id. at 160.

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of the LGC, LRTA as a government instrumentality is not a taxable person because it is not subject to “[t]axes, fees or charges of any kind” by local governments. The only exception is when LRTA grants the beneficial use of its real property to a “taxable person” as provided in Section 234(a) of the LGC, in which case, the specific real property leased becomes subject to real property tax, which must be paid by the “taxable person” as stressed by *J. Caguioa*. Thus, only portions of the LRT leased to taxable persons like private parties are subject to real property tax by the City.

Under Article 420 of the Civil Code, the rail roads and terminals of the LRT, being devoted to public use, are properties of public dominion and thus owned by the State or the Republic of the Philippines. Article 420, while not specifically mentioning “rail roads” or “rail road tracks,” allow for the inclusion of properties of a similar character. LRT rail roads, which necessarily include its terminals, are of a similar character to public roads, as both are devoted for public use and both facilitate transportation through certain vehicles. In any event, the LRT is owned by the State through the LRTA, as its agent, and is definitely intended for some public service, which is to provide mass transportation to the people to alleviate the traffic and transportation situation in Metro Manila. Therefore, being properties of public dominion owned by the Republic, there is no doubt that the LRT rail roads and terminals are expressly exempt from real estate tax under Section 234(a) of the LGC, subject to the rule discussed above, and are not subject to execution or foreclosure sale.

WHEREFORE, the Petition is **GRANTED**. The October 8, 2013 Decision and the January 29, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 129922, are **REVERSED** and **SET ASIDE**. Accordingly, We **DECLARE**:

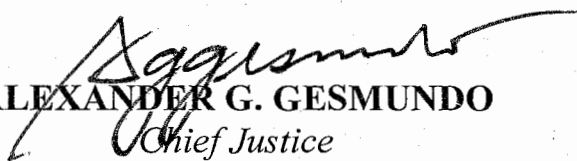
1. Petitioner Light Rail Transit Authority properties that are actually, solely and exclusively devoted for public use, consisting of the LRT rail roads and terminals, and the lots on which they are situated, **EXEMPT** from real property tax imposed by the City of Pasay. Consequentially, the City of Pasay is **PROHIBITED** from imposing any further similar tax.
2. **VOID** all the real property tax assessments, as well as the warrants of levy, issued by the City of Pasay, on petitioner’s properties, except the assessment covering the portions that petitioner has leased to private parties, who are liable to pay the corresponding real property tax.
3. **VOID** the subsequent public auction over any of petitioner’s exempt properties, and any act of disposition made by the City of Pasay of such exempt properties. We likewise declare **VOID** the corresponding Certificates of Sale or Conveyance issued by the City of Pasay.

TW

SO ORDERED.

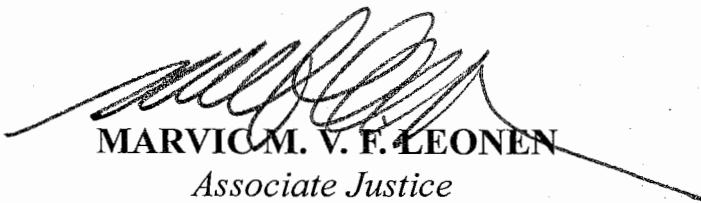

RAMON PAUL L. HERNANDO
Associate Justice

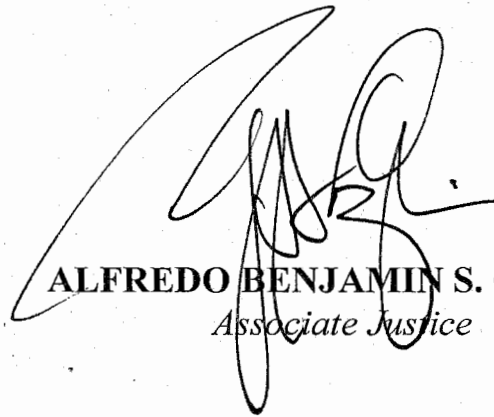
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice

See separate concurring opinion

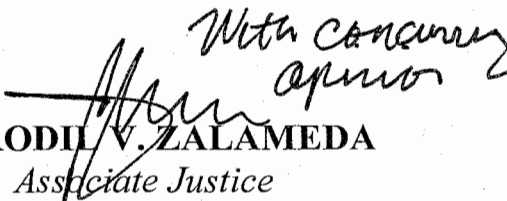
See separate Concurring


MARVIC M. V. F. LEONEN
Associate Justice

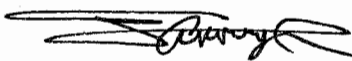

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

On leave on official time
HENRI JEAN PAUL B. INTING
Associate Justice

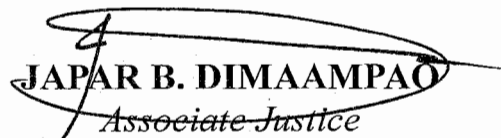
*With concurring
opinion*

RODIL V. ZALAMEDA
Associate Justice

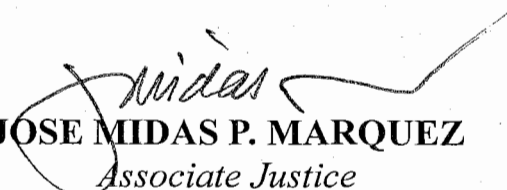
No part
MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

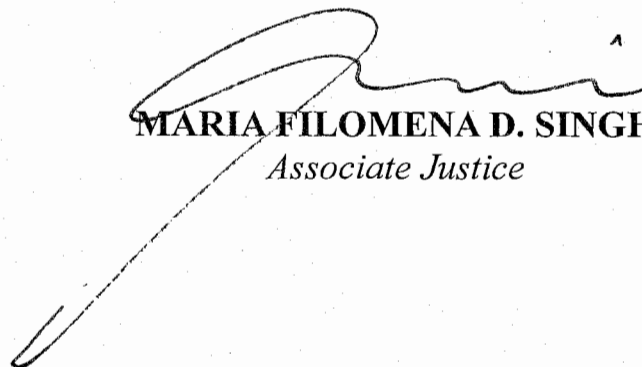

RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

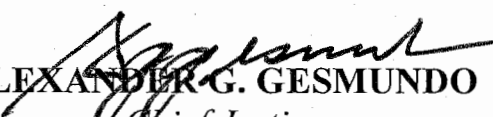

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court