



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**METROPOLITAN WATERWORKS  
 AND SEWERAGE SYSTEM,**

**G.R. No. 215955**

Petitioner,

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
*Chairperson*  
 GISMUNDO,  
 LAZARO-JAVIER,  
 LOPEZ, and  
 ROSARIO, JJ.

**CENTRAL BOARD OF  
 ASSESSMENT APPEALS, THE  
 PASAY CITY LOCAL BOARD OF  
 ASSESSMENT APPEALS, PASAY  
 CITY, THE PASAY CITY  
 TREASURER AND CITY  
 ASSESSOR,**

Respondents.

Promulgated:

JAN 13 2021

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**DECISION**

**LOPEZ, J.:**

Central in this Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Revised Rules of Court, assailing the Resolutions dated June 3, 2014<sup>2</sup> and December 11, 2014<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 129182, is the exemption from real property tax of petitioner Metropolitan Waterworks and Sewerage System (MWSS).

<sup>1</sup> *Rollo*, pp. 10-32.

<sup>2</sup> *Id.* at 39-44; penned by Associate Justice Normandie B. Pizarro, with the concurrence of Presiding Justice Andres B. Reyes, Jr. (now a retired Member of this Court) and Associate Justice Manuel M. Barrios.

<sup>3</sup> *Id.* at 46-47.

### Facts

On June 19, 1971, Republic Act (RA) No. 6234<sup>4</sup> created MWSS “to insure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes and the proper operation and maintenance of sewerage systems.”<sup>5</sup> It was vested with the power to exercise supervision and control over all waterworks and sewerage systems within Metro Manila, Rizal, and a portion of Cavite.<sup>6</sup>

In 1997, pursuant to RA No. 8041<sup>7</sup> or the “National Water Crisis Act of 1995,” MWSS entered into a concessionaire agreement with Maynilad Water Services, Inc. (Maynilad) to service the West Zone of the Metropolitan Area that includes Pasay City.

On February 21, 2008, MWSS received Real Property Tax Computations<sup>8</sup> from the Pasay City Treasurer for taxable year 2008, demanding payment of real property taxes in the total amount of ₱166,629.36. Allegedly on the same day, MWSS filed a Protest Letter<sup>9</sup> dated February 3, 2008, addressed to then Pasay City Mayor Wenceslao Peewee Trinidad. MWSS argued that it is a public utility and a government instrumentality, and its properties and facilities are exempt from real property tax, consistent with its position in the Petition for *Certiorari* and Prohibition with the CA that it filed against the local government of Quezon City, docketed as CA-G.R. SP No. 100733.<sup>10</sup> This claim was anchored upon the case of *Manila International Airport Authority v. CA*,<sup>11</sup> (*MIAA*) that declared MIAA a government instrumentality exercising corporate powers,<sup>12</sup> and thus, exempt from real property taxes under Section 133(o)<sup>13</sup> and

<sup>4</sup> AN ACT CREATING THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM AND DISSOLVING THE NATIONAL WATERWORKS AND SEWERAGE AUTHORITY; AND FOR OTHER PURPOSES; approved on June 19, 1971.

<sup>5</sup> Republic Act (RA) No. 6234 (1971), Sec. 1.

<sup>6</sup> RA No. 6234 (1971), Sec. 2(c).

<sup>7</sup> AN ACT TO ADDRESS THE NATIONAL WATER CRISIS AND FOR OTHER PURPOSES; approved on June 7, 1995.

<sup>8</sup> *Rollo*, pp. 90-99; erroneously referred to as “notices of assessment” by MWSS and in the CA Resolution dated June 3, 2014. *Supra* note 2.

<sup>9</sup> *Id.* at 100.

<sup>10</sup> *Id.*

<sup>11</sup> 528 Phil. 181 (2006).

<sup>12</sup> *Id.* at 212-213.

<sup>13</sup> SECTION. 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.

Section 234(a)<sup>14</sup> of RA No. 7160<sup>15</sup> or the “Local Government Code of 1991” (LGC).<sup>16</sup>

Due to inaction on the part of the Pasay City Treasurer, MWSS filed an appeal to the Local Board of Assessment Appeals (LBAA).<sup>17</sup>

### **LBAA Ruling**

The LBAA observed MWSS’s non-compliance with Section 252<sup>18</sup> of the LGC for failure to file protest with the city treasurer that made the assessment final and not appealable. Nonetheless, the LBAA resolved the substantive issue on whether MWSS is liable to pay real property taxes. It ruled that the MWSS is a government-owned or controlled corporation (GOCC), not a government instrumentality. Hence, the doctrine of tax exemption enunciated in *MIAA* is not applicable. It also pointed out that when the MWSS entered into a concessionaire agreement with Maynilad, the actual use of its real properties was turned over to a taxable person. Therefore, the assessment of real property taxes against the MWSS was “reasonable and collectible.”<sup>19</sup>

Aggrieved, the MWSS filed an appeal to the Central Board of Assessment Appeals (CBAA).

### **CBAA Ruling**

In its Decision<sup>20</sup> dated August 30, 2012, the CBAA affirmed the assessment’s finality, not for failure to comply with Section 252 of the LGC, but for failure to question the legality of the assessment before the city assessor in accordance with Section 226<sup>21</sup> of the LGC.<sup>22</sup> For this reason, the CBAA did not discuss the merits of the case for being moot and academic.

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<sup>14</sup> 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[.]

<sup>15</sup> AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991; approved on October 10, 1991.

<sup>16</sup> *Supra* note 11, at 224.

<sup>17</sup> *Rollo*, p. 14.

<sup>18</sup> SEC. 252. *Payment under Protest.* — (a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words “paid under protest [.]” The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.

<sup>19</sup> *Rollo*, p. 178.

<sup>20</sup> *Id.* at 50-60.

<sup>21</sup> 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) 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.

<sup>22</sup> *Rollo*, pp. 58-59.

MWSS filed a motion for reconsideration (MR), but it was denied in an Order<sup>23</sup> dated February 27, 2013. In denying the MR, the CBAA acknowledged that MWSS is a government instrumentality, recognized under RA No. 10149,<sup>24</sup> or the “GOCC Governance Act of 2011.” As such, it cannot be subjected to local taxes, fees and charges as provided under Section 133(o)<sup>25</sup> of the LGC. However, this is not relevant since the collections involved are real property taxes. Instead, Section 40(a)<sup>26</sup> of Presidential Decree (PD) No. 464,<sup>27</sup> as embodied under Section 234(a)<sup>28</sup> of the LGC should apply. In other words, the CBAA ruled that the common limitation on the taxing power of the local government under Section 133(o) should not affect the imposition of real property taxes. Besides, MWSS’s tax exemption under Section 18<sup>29</sup> of its Charter (RA No. 6234)<sup>30</sup> had already been withdrawn by Section 234 of the LGC, which states:

SEC. 234. x x x

x x x x

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby withdrawn upon the effectivity of this Code.

MWSS appealed the CBAA’s ruling to the CA.

### CA Ruling

In a Resolution<sup>31</sup> dated June 3, 2014, the CA dismissed MWSS’s appeal for failure to exhaust administrative remedies as provided under

<sup>23</sup> *Id.* at 62-79.

<sup>24</sup> 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 on June 6, 2011.

<sup>25</sup> *Supra* note 13.

<sup>26</sup> SEC. 40. *Exemptions from Real Property Tax.* — The exemption shall be as follows:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned corporation so exempt by its charter: *Provided, however,* That this exemption shall not apply to real property of the abovenamed entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person.

<sup>27</sup> ENACTING A REAL PROPERTY TAX CODE; effective on June 1, 1974.

<sup>28</sup> *Supra* note 14.

<sup>29</sup> SEC. 18. *Tax Exemption.* — All articles imported by the Metropolitan Waterworks and Sewerage System or the local governments for the exclusive use of their waterworks and sewerage systems particularly machineries, equipment, pipes, fire hydrants, and those related to, or connected with, the construction, maintenance, and operation of dams, reservoirs, conduits, aqueducts, tunnels, purification plants, water mains, pumping stations; or of artesian wells and springs within their territorial jurisdictions, shall be exempt from the imposition of import duties and other taxes.

<sup>30</sup> *Supra* note 4.

<sup>31</sup> *Supra* note 2.

Sections 206<sup>32</sup> and 252<sup>33</sup> of the LGC, requiring proof of exemption and payment under protest, thus:

**WHEREFORE**, the petition is **DISMISSED**. The assailed dispositions dated August 30, 2012 and February 27, 2013 **STAND**.

**SO ORDERED**.<sup>34</sup>

MWSS's MR was denied in a Resolution<sup>35</sup> dated December 11, 2014, hence, this petition.

### Issues

(1) Did the CA err in dismissing MWSS's appeal for failure to exhaust administrative remedies?

(2) Is Pasay City authorized to assess and collect real property taxes from MWSS?

### Ruling

*Administrative remedies are inapplicable when the issue presented is a pure question of law.*

The CA palpably erred in dismissing MWSS's appeal solely on the ground of the alleged non-exhaustion of administrative remedies under the LGC. A careful reading of MWSS's arguments and allegations reveals that it is neither challenging the reasonableness or correctness of the City Assessor's assessment nor asserting error on the part of the City Treasurer's computation of the assessed tax. Plainly, MWSS is assailing the authority of the city assessor and treasurer to assess and collect real property taxes against it. The issue of whether a local government is authorized to assess and collect real property taxes from a government entity is a pure question of law,<sup>36</sup> which is beyond the LBAA and CBAA's jurisdiction.

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<sup>32</sup> SEC. 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.

X X X X

<sup>33</sup> *Supra* note 18.

<sup>34</sup> *Rollo*, p. 44.

<sup>35</sup> *Supra* note 3.

<sup>36</sup> *Metropolitan Waterworks Sewerage System v. The Local Government of Quezon City*, G.R. No. 194388, November 7, 2018, 884 SCRA 493, 497.



In the oft-cited case of *Ty v. Hon. Trampe*,<sup>37</sup> the Court held that the rule on exhaustion of administrative remedies does not apply when the controversy does not involve questions of fact but only of law.<sup>38</sup> The protest contemplated under Section 252 of the LGC is required when there is question as to the reasonableness or correctness of the amount assessed, while an appeal to the LBAA under Section 226 is fruitful only where questions of fact are involved.<sup>39</sup> Accordingly, when the very authority and power of the assessor to impose the assessment, and of the treasurer to collect real property taxes are in question, the proper recourse is a judicial action.<sup>40</sup>

Thus, despite the alleged non-exhaustion of administrative remedies, we give due course to the instant Petition on the ground that the controversy only involves a question of law.<sup>41</sup>

*MWSS is a government instrumentality with corporate powers, not liable to the local government of Pasay City for real property taxes. The tax exemption that its properties carries, however, ceases when their beneficial use has been extended to a taxable person. The liability to pay real property taxes on government-owned properties, the beneficial or actual use of which was granted to a taxable entity, devolves on the taxable beneficial user.*

The case of *Metropolitan Waterworks Sewerage System v. The Local Government of Quezon City*<sup>42</sup> (2018 MWSS Case), which reviewed the CA Decision in CA-G.R. SP No. 100733, has already settled with finality that MWSS is a government instrumentality vested with corporate powers, and as such, exempt from payment of real property taxes. The Court explained that with the issuance of Executive Order No. 596,<sup>43</sup> as well as the passage of RA No. 10149,<sup>44</sup> the Executive and the Legislative Branches have

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<sup>37</sup> 321 Phil. 81 (1995).

<sup>38</sup> *Id.* at 101.

<sup>39</sup> See *National Power Corp. v. Province of Quezon*, 624 Phil. 738, 759 (2010); *Ty v. Hon. Trampe*, *id.*

<sup>40</sup> See *National Power Corp. v. Municipal Government of Navotas*, 747 Phil. 744, 755 (2014); *Ty v. Hon. Trampe*, *supra* note 37, at 101-102.

<sup>41</sup> *National Power Corp. v. Municipal Government of Navotas*, 747 Phil. 744, 756 (2014).

<sup>42</sup> *Metropolitan Waterworks Sewerage System v. The Local Government of Quezon City*, G.R. No. 194388, November 7, 2018, 884 SCRA 493.

<sup>43</sup> DEFINING AND INCLUDING "GOVERNMENT INSTRUMENTALITY VESTED WITH CORPORATE POWERS" OR "GOVERNMENT CORPORATE ENTITIES" UNDER THE JURISDICTION OF THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL (OGCC) AS PRINCIPAL LAW OFFICE OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS (GOCCS) AND FOR OTHER PURPOSES; signed on December 29, 2006.

<sup>44</sup> *Supra* note 24.

explicitly classified MWSS as a government instrumentality with corporate powers, thus:

Be that as it may, this Court's categorization cannot supplant that which was previously made by the Executive and Legislative Branches. After the promulgation of *Manila International Airport Authority*, then President Gloria Macapagal-Arroyo issued Executive Order No. 596, which recognized this Court's categorization of "government instrumentalities vested with corporate powers." Section 1 of Executive Order No. 596 states:

Section 1. The Office of the Government Corporate Counsel (OGCC) shall be the principal law office of all GOCCs, except as may otherwise be provided by their respective charter or authorized by the President, their subsidiaries, corporate offsprings, and government acquired asset corporations. The OGCC shall likewise be the principal law office of "government instrumentality vested with corporate powers" or "government corporate entity[.]" as defined by the Supreme Court in the case of "*MIAA vs. Court of Appeals, City of Parañaque, et al.*["] [*supra*], notable examples of which are: Manila International Airport Authority (MIAA), Mactan International Airport Authority, the Philippine Ports Authority (PPA), Philippine Deposit Insurance Corporation (PDIC), *Metropolitan Water and Sewerage Services (MWSS)*, Philippine Rice Research Institute (PRRI), Laguna Lake Development Authority (LLDA), Fisheries Development Authority (FDA), Bases Conversion Development Authority (BCDA), Cebu Port Authority (CPA), Cagayan de Oro Port Authority, and San Fernando Port Authority.

Under this provision, petitioner is categorized with other government agencies that were found to be exempt from the payment of real property taxes.

In 2011, Congress passed Republic Act No. 10149 or the GOCC Governance Act of 2011, which adopted the same categorization and explicitly lists petitioner together with the other government agencies that were previously held by this Court to be exempt from the payment of real property taxes:

(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

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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).

The Executive and Legislative Branches, therefore, have already categorized petitioner not as a government-owned and -controlled corporation but as a Government Instrumentality with Corporate Powers/Government Corporate Entity like the Manila International Airport Authority and the Philippine Fisheries Development Authority. Privileges enjoyed by these Government Instrumentalities with Corporate Powers/Government Corporate Entities should necessarily also extend to petitioner. Hence, petitioner's real property tax exemption under Republic Act No. 6234 is still valid as the proviso of Section 234 of the Local Government Code is only applicable to government-owned and -controlled corporations.

Thus, petitioner is not liable to respondent Local Government of Quezon City for real property taxes, except if the beneficial use of its properties has been extended to a taxable person.

Respondents have not alleged that the beneficial use of any of petitioner's properties was extended to a taxable person. In the absence of any allegation to the contrary, petitioner's properties in Quezon City are not subject to the levy of real property taxes.<sup>45</sup> (Citations omitted.)

Consistent with our ruling in the 2018 MWSS Case, in relation to *MIAA*, the tax exemptions under Sections 133(o) and 234(a) of the LGC apply to MWSS, *viz.*:

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.

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[.]

These provisions are clear as to a government instrumentality's tax exemption. In brief, *MIAA* explained that this limitation to the local

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<sup>45</sup> *Supra* note 42, at 520-522.





government's taxing power recognizes the basic principle that local governments cannot tax the national government, which merely delegated to local governments the power to tax. 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."<sup>46</sup> Thus, when local governments invoke their power to tax on government instrumentalities, such power is construed strictly against local governments.<sup>47</sup>

The tax exemption under Section 234(a), however, ceases when the beneficial use of the real properties is alleged and proved to have been granted, for a consideration or otherwise, to a taxable person.<sup>48</sup> Beneficial use means actual use or possession of the property. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.<sup>49</sup>

In this case, there was an allegation that the beneficial use of MWSS's properties in Pasay were given to Maynilad by virtue of a concession agreement. This factual allegation, however, was not proved and merely based on a sweeping conclusion that when MWSS entered into a concession agreement, all its properties were effectively turned over to the concessionaires for their operations. At this point, the Court cannot make a judicious determination of such factual matter due to the insufficiency of evidence on records. At any rate, the tax-exempt status of a government instrumentality is not lost when it grants the beneficial use of its real property to a taxable person; only the exemption of the real property ceases in such case. The LGC also leaves no room for interpretation on the corresponding liability of the taxable beneficial user for the payment of real property taxes on a government instrumentality property.<sup>50</sup> Section 205(d) of the LGC provides:

SEC. 205. Listing of Real Property in the Assessment Rolls. – x x x

x x x x

**(d) Real property owned by the Republic of the Philippines, its instrumentalities and political subdivisions, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee, or of the public entity if such property has been acquired or held for resale or lease.<sup>51</sup> (Emphasis supplied.)**

<sup>46</sup> CONSTITUTION, Art. X, Sec. 5.

<sup>47</sup> *Manila International Airport Authority v. CA*, *supra* note 11, at 214; *Republic of the Phils. v. City of Parañaque*, 691 Phil. 476, 492 (2012).

<sup>48</sup> *Metropolitan Waterworks Sewerage System v. The Local Government of Quezon City*, *supra* note 42, at 506-507, citing *Manila International Airport Authority v. CA*, *supra* note 11.

<sup>49</sup> *Herarc Realty Corp. v. The Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018; and RA No. 7160, Section 199(b).

<sup>50</sup> *Id.*

<sup>51</sup> PD No. 464 or the "REAL PROPERTY TAX CODE OF 1974," Section 8, paragraph 4, is similarly worded as follows:

Indeed, it is a fundamental principle in real property taxation that the assessment of real property shall be based on its actual use.<sup>52</sup> The Court has consistently ruled that while the liability for taxes generally rests on the owner of the real property, personal liability for real property taxes may also expressly rest on the entity with the beneficial use of the real property at the time the tax accrues.<sup>53</sup> In as early as 1980 in the case of *City of Baguio v. Busuego*,<sup>54</sup> we ruled that the taxable person who purchased in installment the property belonging to a tax-exempt person was held liable to pay the real property taxes from the time the possession of the property was transferred to him despite such tax-exempt person's retention of ownership and title over the property pending full payment of the purchase price.<sup>55</sup> This ruling was made more explicit in the case of *National Power Corp. v. Province of Quezon*.<sup>56</sup>

The liability for taxes generally rests on the owner of the real property owner at the time the tax accrues. This is a necessary consequence that proceeds from the fact of ownership. However, personal liability for realty taxes may also expressly rest on the entity with the beneficial use of the real property, such as the tax on property owned by the government but leased to private persons or entities, or when the tax assessment is made on the basis of the actual use of the property. **In either case, the unpaid realty tax attaches to the property but is directly chargeable against the taxable person who has actual and beneficial use and possession of the property regardless of whether or not that person is the owner.**<sup>57</sup> (Emphasis in the original; citations omitted.)

In sum, we hold that MWSS is not liable to the local government of Pasay City for real property taxes. The tax exemption of its properties, however, ceases when the beneficial or actual use is alleged and proven to

Real property owned by the Republic of the Philippines, its political subdivisions and any government-owned corporation so exempt by its charter, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, **shall be listed for purpose of taxation in the name of the grantee**, or of the public entity if such property has been acquired for resale or lease. (Emphasis supplied.)

<sup>52</sup> RA No. 7160, SEC. 198. *Fundamental Principles*. — The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:

x x x x

(b) Real property shall be classified for assessment purposes on the basis of its actual use[.]

SEC. 217. *Actual Use of Real Property as Basis for Assessment*. — Real Property shall be classified, valued and assessed on the basis of its actual use regardless of where located, whoever owns it, and whoever uses it.

PD No. 464, SEC 2. *Fundamental Principles*. — The appraisal and assessment of real property for taxation purposes shall be guided by the following fundamental principles:

x x x x

3) Real property shall be classified for assessment purposes on the basis of its actual use[.]

SEC. 19. *Actual Use of Real Property as Basis for Assessment*. — Real property shall be assessed on the basis of its actual use regardless of where located and whoever uses it.

<sup>53</sup> *Herarc Realty Corp. v. Provincial Treasurer of Batangas*, *supra* note 49; *National Power Corp. v. Province of Quezon*, 610 Phil. 456, 467 (2009); *Testate of Concordia Lim v. City of Manila*, 261 Phil. 602, 611 (1990); and *City of Baguio v. Busuego*, 188 Phil. 218, 224-225 (1980).

<sup>54</sup> 188 Phil. 218 (1980).

<sup>55</sup> *Id.* at 223-224.

<sup>56</sup> *National Power Corp. v. Province of Quezon*, 610 Phil. 456 (2009).

<sup>57</sup> *Id.* at 467-468.

have been extended to a taxable person. All the assessments issued in the name of MWSS should thus, be declared void. To be clear, Pasay City is not precluded from availing of the appropriate remedies under the law to assess and collect real property taxes from the private entities to whom MWSS may have granted the beneficial use of its properties.

*MWSS' claim for refund of real property taxes erroneously paid will not automatically issue.*

As the real property tax assessments issued in the name of MWSS are declared void, MWSS's claim for refund of the real property taxes erroneously paid based on void assessments cannot be ignored. This entitlement to a tax refund, however, is not automatic. The amount is a factual matter that must be threshed out with certainty in the normal course and in accordance with the administrative procedure provided under the LGC.<sup>58</sup>

Section 253 of the LGC provides for the procedure in claiming for real property tax refund:

SEC. 253. Repayment of Excessive Collections. – When an assessment of basic real property tax, or any other tax levied under this Title, is found to be illegal or erroneous and the tax is accordingly reduced or adjusted, the taxpayer may file a written claim for refund or credit for taxes and interests with the provincial or city treasurer within two (2) years from the date the taxpayer is entitled to such reduction or adjustment.

The provincial or city treasurer shall decide the claim for tax refund or credit within sixty (60) days from receipt thereof. In case the claim for tax refund or credit is denied, the taxpayer may avail of the remedies as provided in Chapter 3, Title II, Book II of this Code.

MWSS's claim for tax refund should, therefore, be filed with the city treasurer within two years from the finality of this Decision, as it is only then that the invalidity of the Pasay City assessment is finally settled.

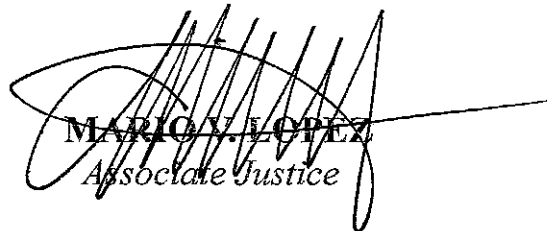
**FOR THESE REASONS**, the petition is **PARTLY GRANTED**. The Resolutions dated June 3, 2014 and December 11, 2014 in CA-G.R. SP No. 129182 are **REVERSED and SET ASIDE**. The real properties of the Metropolitan Waterworks and Sewerage System located in Pasay City are **DECLARED EXEMPT** from real property tax, **EXCEPT** when their beneficial use is alleged and proved to have been granted to taxable entities. All the real property tax assessments and computations issued in the name of Metropolitan Waterworks and Sewerage System are **DECLARED VOID**.

<sup>58</sup> *Allied Banking Corp. v. The Quezon City Government*, 533 Phil. 409, 414 (2006)



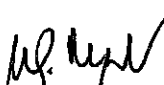
The Metropolitan Waterworks and Sewerage System's claim for refund may be pursued in accordance with Section 253 of the Local Government Code of 1991 within two years from the finality of this Decision.

**SO ORDERED.**



MARION N. LOPEZ  
*Associate Justice*


**WE CONCUR:**



ESTELA M. PERLAS-BERNABE  
*Senior Associate Justice*  
*Chairperson*



ALEXANDER G. GESMUNDO  
*Associate Justice*




AMY C. LAZARO-JAVIER  
*Associate Justice*



RICARDO R. ROSARIO  
*Associate Justice*


**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson, Second Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
*Chief Justice*