



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 18, 2021** which reads as follows:*

“G.R. No. 227288 (Atty. Racimo R. Estampador, Petitioner, v. The City Assessor of Manila, Respondent). –

One’s tax liability must be a liability that arises from law. The contractual assumption of obligation is, by itself, insufficient to make one liable for payment of taxes. The person from whom payment is sought must have acquired the beneficial use of the property subject of the tax.

Before the Court is a Petition for Review on *Certiorari*¹ filed by Atty. Racimo R. Estampador (petitioner) seeking to reverse and set aside the 05 November 2015 Decision² and 28 July 2016 Resolution³ of the Court of Tax Appeals (CTA) in CTA EB Case No. 1109. The dispositive portion of the Decision reads:

“WHEREFORE, premises considered, the October 4, 2001 Order and November 28, 2011 Resolution of the Local Board of Assessment Appeals in LBAA Case No. 96-3704, and the August 15, 2013 Decision and November 13, 2013 Resolution of the Central Board of Assessment Appeals in CBAA Case No. L-123, are **SET ASIDE**. Let the case be **REMANDED** to the Local Board

- over – ten (10) pages ...

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¹ *Rollo*, pp. 3-31.

² *Id.* at 32-42. Penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castaneda, Jr., Lovell R. Bautista, Erlinda P. Uy, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban. Presiding Justice Roman G. Del Rosario submitted a Dissenting Opinion. Associate Justices Esperanza R. Fabon-Victorino and Amelia R. Cotangco-Manalastas were on leave.

³ *Id.* at 48-50. Penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castaneda, Jr., Lovell R. Bautista, Erlinda P. Uy, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban. Presiding Justice Roman G. Del Rosario maintained his Dissenting Opinion to which Associate Justice Amelia R. Cotangco-Manalastas concurred. Associate Justice Esperanza R. Fabon-Victorino took no part.

of Assessment Appeals to include the Philippine Ports Authority as an indispensable party, and afterwards, to hear the case **STRICTLY** in the manner prescribed by the rules.⁴

Antecedents

On 25 June 1974, petitioner entered into a Contract of Lease⁵ with the Bureau of Building and Real Property Management (BBRPM), Department of General Services, covering a parcel of land with an area of 4,778.87 square meters (sq. m.) located at Chicago St., corners 6th and 7th Streets, Port Area, Manila, for a period of twenty-five (25) years, or until 1999. The area subject of the contract was later increased to 10,649.87 sq. m.

Paragraph 8 of the terms and conditions of the Contract of Lease states:

8. All taxes and assessments levied or to be levied upon the leased premises shall be for the exclusive account of the LESSOR and all taxes and assessments levied for the improvements shall be for the exclusive account of the LESSEE[.]⁶

The Philippine Ports Authority (PPA) assumed some of the functions of the BBRPM on 23 December 1975, particularly on matters concerning port facilities, ports operations, or port works,⁷ pursuant to Presidential Decree No. 857.⁸

President Corazon C. Aquino, on 17 March 1988, issued Executive Order 321 (EO 321)⁹ expanding the territorial area of the South Harbor, Port of Manila, and placing it under the jurisdiction of the PPA.¹⁰ EO 321 also transferred to PPA all records and documents

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⁴ *Id.* at 41.

⁵ *Id.* at 69-72.

⁶ *Id.* at 70.

⁷ Section 40 of PD No. 857 provides:

Section 40. Other Laws. Any and all other powers and rights, duties and functions and jurisdiction vested in and all properties and appropriations of any government agency, authority or instrumentality pertaining to every matter concerning port facilities, ports operations, or port works shall be transferred to and be vested in the Authority.

⁸ "Providing for the Reorganization of Port Administration and Operation Functions in the Philippines, Revising Presidential Decree No. 505 dated July 11, 1974, Creating the Philippine Ports Authority, by substitution, and for other purposes.

⁹ Expanding the territorial area of the South Harbor Port Zone of the Port of Manila under the jurisdiction of the Philippine Ports Authority.

¹⁰ Sec. 2. The South Harbor Port Zone, as expanded, is hereby placed under the jurisdiction of the Philippine Ports Authority which shall, consistent with law, implement a program for the proper zoning and utilization of the limited port areas in the said Port Zone.

covering all existing leases, leasehold rights, and contracts on the areas within the expanded South Harbor Port Zone.¹¹

Included in the expansion was the leased property. Thus, petitioner started paying his lease rentals to PPA. On 07 January 1996, he received a copy of the Notice of Assessment of Real Property dated 29 December 1995 from the Office of the City Assessor of Manila for the subject parcel of land used for commercial purposes.¹² The Notice pegged the total assessed value of the leased property at Php61,345,290.00.

Petitioner contested the assessment and requested the City Assessor of Manila to consider the leased property to be exempted and dropped from the list of taxable properties.¹³ Likewise, petitioner appealed the assessment made by the City Assessor under Notice of Assessment No. 96-00009 to the Local Board of Assessment Appeals (LBAA) on 23 February 1996. It was docketed as LBAA Case No. 96-3704. On 19 March 1996, petitioner filed an Urgent Motion to Submit the Appealed Case for Decision/Resolution with the LBAA.

In the meantime, on 17 January 1997, he received two Notices of Adjusted Assessment of Real Property from the Office of the City Assessor for commercial land and improvement. Thus, petitioner filed an Urgent Motion/Manifestation on 29 January 1997 before the LBAA, praying that the new notices of assessment be consolidated with the pending appeal. Nonetheless, petitioner paid Php2,266,686.68 of the tax assessments issued against him under protest.

Ruling of the LBAA

On 04 October 2001, the LBAA dismissed the appeal, without prejudice, due to petitioner's "failure to pursue appeal filed [o]n March 1, 1996, for an unreasonable length of time, and to show cause why this appeal should be heard."

Petitioner filed a Motion for Reconsideration on 21 December 2001, arguing that he has never been remiss nor negligent in following

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¹¹ Sec. 3. The Philippine Ports Authority shall review all existing leases, leasehold rights and contracts on the areas within the expanded Port Zone in accordance with the port policy that it shall adopt, taking into consideration the primary utilization of the limited areas in the Port Zone for port-related businesses and industries. For this purpose, all records and documents covering all leases, leasehold rights and tenants in the said areas now with the Department of Environment and Natural Resources are hereby transferred to the Philippine Ports Authority.

¹² *Id.* at 76.

¹³ *Id.* at 77-81

up the development of his appeal as shown by several letters he sent to the LBAA.

No further action was taken on the case. On 28 March 2008, petitioner wrote a letter to Atty. Marissa Endaya-Timones, Chairperson of the LBAA, praying for the resolution of his appeal, which has been pending since 1996. Petitioner reiterated his request in another letter received by the LBAA on 27 April 2009. He again wrote the LBAA on 28 December 2009 and on 05 January 2011, but the appeal remained unresolved.

Finally, on 28 November 2011, the LBAA issued a Resolution,¹⁴ denying his appeal. A copy of the Resolution was personally received by petitioner's son on 20 January 2012 at the LBAA office.¹⁵

The LBAA ruled that petitioner cannot rely on Section 25¹⁶ of the Presidential Decree No. 857 (PD 857) since it was the PPA that was given exemption, and not the person or entity using the property owned by said entity. In any event, even the exemption given to PPA had already been removed, as discussed in the 2003 case of *PPA v. City of Iloilo*.¹⁷ On the other hand, there is no impairment of the lease contract because at the time of its execution in 1974, PD 464¹⁸ did not grant any tax exemption on properties owned by BBRPM, the beneficial use of which has been granted to a non-exempt entity.

Petitioner thus appealed to the Central Board of Assessment Appeals (CBAA).

Ruling of the CBAA

The CBAA dismissed the appeal for lack of merit in its 15 August 2013 Decision.¹⁹ It ruled that the Contract of Lease is a private agreement or undertaking between the lessor and the lessee, which is binding and enforceable only between them. It cited the case of *Testate Estate of Concordia T. Lim v. City of Manila*²⁰ where the

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¹⁴ *Rollo*, pp. 116-120.

¹⁵ *Id.* at 121.

¹⁶ Section 25. Exemption from Realty Taxes -The Authority shall be exempt from the payment of real property taxes imposed by the Republic of the Philippines, its agencies, instrumentalities or political subdivisions; Provided, That no tax exemptions shall be extended to any subsidiaries of the Authority that may be organized; Provided, finally, That investments in fixed assets shall be deductible for income tax purposes.

¹⁷ G.R. No. 109791, 14 July 2003.

¹⁸ Enacting a Real Property Tax Code.

¹⁹ *Rollo*, pp. 128-134.

²⁰ G.R. No. 90639, 21 February 1990.

Court ruled that unpaid taxes attach to the property and is chargeable to the taxable person who had actual or beneficial use and possession of it regardless of whether or not he is the owner. The CBAA pointed out that petitioner, as the lessee, may ask PPA for the reimbursement for realty taxes he paid.

Petitioner filed a Motion for Reconsideration²¹ of the Decision.²² However, it was denied by the CBAA in its 13 November 2013 Resolution,²³ prompting him to elevate the case to the CTA.

Ruling of the CTA

The CTA ruled that the LBAA and CBAA erred when they resolved the case without first impleading the PPA as an indispensable party. It noted that PPA stands to be adversely affected if the petition for review is granted. In addition, only the CTA can affirm or deny the factual allegations of petitioner. Thus, the CTA remanded the case to the LBAA in order to implead PPA.

Notably, Presiding Justice Roman G. Del Rosario (PJ Del Rosario) dissented. According to him, the issue is whether the lessee and beneficial user of the property owned by PPA is liable for its real property taxes. The controversy is purely between petitioner and the City Assessor of Manila; hence, there is no need to implead PPA, as the owner of the leased property. PJ Del Rosario opines that this Court's pronouncement in *City of Pasig, represented by the City Treasurer and the City Assessor vs. Republic of the Philippines, represented by the Presidential Commission on Good Government*²⁴ clarifies that the City Assessor of Manila has no basis to assess petitioner for real property tax.

Petitioner moved for reconsideration, but it was denied by the CTA in its Resolution dated 28 July 2016. The CTA held that it is imperative to remand the case to the LBAA in order to accord all parties the benefit of due process and fair play, and for the proper determination as to who is legally accountable for the subject real property tax. PJ Del Rosario maintained his dissent, with Associate Justice Amelia R. Cotangco-Manalastas concurring.

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²¹ *Rollo*, pp. 137-142.

²² *Id.* at 137-142.

²³ *Id.* at 143-147.

²⁴ G.R. No. 185023, 24 August 2011. Penned by Senior Associate Justice Antonio T. Carpio (ret), with the concurrence of Associate Justices Arturo D. Brion (ret), Diosdado M. Peralta (now Chief Justice), Jose Portugal Perez (ret), and Jose C. Mendoza (ret).

The Instant Petition

In the instant case, petitioner argues that the CTA erred in remanding the case to the LBAA and ruling that PPA should be impleaded as an indispensable party. In addition, he faults the CTA for not applying the *City of Pasig* case and ignoring paragraph 8 of the terms and conditions of the Contract of Lease, which provides that all taxes and assessments levied or to be levied upon the leased premises shall be for the exclusive account of the lessor.²⁵

On the other hand, the City Assessor of Manila,²⁶ asserts that this Court, in the *City of Pasig* case, recognizes that the Republic of the Philippines will not pay the tax on the leased portions of its property but will just pass the real estate tax to the lessee, such as herein petitioner. Moreover, said ruling is not applicable to the present case in view of Section 205²⁷ of Republic Act No. 7160 (RA 7160), otherwise known as the Local Government Code (LGC).

Issue

The issue in the case at bar is whether or not petitioner is liable for the real property taxes assessed on the leased property.

Ruling of the Court

The petition is partly meritorious.

The PPA is not an indispensable party; Remand is not necessary

An indispensable party is a party whose legal presence in the proceeding is so necessary that the action cannot be finally determined without him because his interest in the matter and in the relief is so bound up with that of the other parties.²⁸ A person is not an indispensable party, however, if his interest is separable from the interest of the other parties, so that it will not necessarily be directly

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²⁵ *Rollo*, p. 8.

²⁶ *Id.* at 153-159.

²⁷ 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.

²⁸ See *Heirs of Valeriano C. Dela Corta, Sr. v. Alag-Pitogo*, G.R. No. 226863, 19 February 2020 [Per J. Inting] citing *Spouses Aboitiz v. Spouses. Po*, 810 Phil. 123, 165 (2017).

or injuriously affected by a decree that does complete justice between them. That a party's participation in the suit will avoid multiple litigation is not sufficient reason to declare a party indispensable.²⁹

The issue in this case is whether or not petitioner is liable for the real property taxes on the leased property owned by PPA. If the petition for review is granted and the assessment cancelled, petitioner obtains a refund for the payments he made under protest. If the petition is denied, then the City of Manila retains the money he paid. In both instances, PPA suffers no material injury. As such, it is clear that PPA's interest is separable from the interest of Petitioner.

On the other hand, the CTA holds that a remand of the case is necessary to afford everyone due process and fair play, and to determine who is legally accountable for the real property taxes.

We do not agree. As discussed above, PPA's interest is separable from that of petitioner. It can protect its interest in another case if so warranted. Likewise, the issue of who is legally accountable for the real property taxes is purely a legal question. In fact, there appears to be no factual issues involved since petitioner's claim that the facts are undisputed was not refuted by the City Assessor of Manila, who could have made a counterstatement of facts.

More importantly, the Court is mindful that the LBAA took fifteen (15) years to resolve the issue, despite the clear mandate of the law that it must be resolved within one hundred twenty days from the date of receipt of such appeal.³⁰ To remand the case would be prolonging the agony of the parties, particularly, the petitioner. Indeed, "justice delayed is not only justice denied, but justice despised."³¹

The remand of a case is not necessary where the Court is in a position to resolve the dispute based on the records before it. The Court will decide actions on the merits in order to expedite the settlement of a controversy and if the ends of justice would not be served by a remand of the case.³²

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²⁹ *Id.* citing *Regner v. Logarta*, 562 Phil. 862, 875-876 (2007).

³⁰ Sec. 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 as a reasonable mind might accept as adequate to support its conclusion.

³¹ *See Bongay v. Honorable Conchita J. Martinez*, G.R. No. 77188, 14 March 1988 [Per. J. Sarmiento]

³² *Government Service Insurance System v. Commission on Audit*, G.R. No. 138381, 10 November 2004 [Per J. Ynares-Santiago]

In the instant case, no useful purpose will be served if the case is remanded to the LBAA, only for its decision to be elevated again to the CBAA and later on to the CTA, and subsequently, to this Court.

The applicability of the City of Pasig v. Republic case

In *City of Pasig*, penned by Senior Associate Justice Antonio T. Carpio, the Court ruled that “the law imposes the liability to pay real estate tax on the Republic of the Philippines for the portions of the properties leased to taxable entities.” This is, however, subject to the assumption that the “Republic of the Philippines passes on the real estate tax as part of the rent to the lessees.”

On the other hand, the Court’s pronouncement in the 2006 case of *Manila International Airport Authority v. Court of Appeals*³³ gave birth to a new category of “instrumentality with corporate powers.” Consequently, EO 596 was issued on 29 December 2006 and it specifically named the PPA as a “government instrumentality vested with corporate powers” or “government corporate entity.” In addition, Sec. 3(n) of RA 10149, or the GOCC Governance Act of 2011, lists the PPA as a governmental instrumentality.

The PPA being a government instrumentality, Section 234 (a) of the LGC, which must be read in conjunction with Section 133 (o),³⁴ is applicable. Accordingly, its properties are generally exempted from payment of real property taxes. That exemption, however, ceases when the beneficial use of its properties has been granted to a taxable person, as in this case.

Petitioner is liable to pay the real property taxes

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³³ G.R. No. 155650, 20 July 2006 [Per J. Carpio]

³⁴ The pertinent provisions read:

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 had been granted, for consideration or otherwise, to a taxable person;

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

(o) Taxes, fees or charges of any kinds on the National Government, its agencies and instrumentalities, and local government units.

As there remains no doubt that the leased property is not exempted from taxation, the issue left for the Court's determination is on whom the liability falls: petitioner, who has the actual and beneficial use of the property, or PPA, which owns the leased property?

In *Philippine Heart Center v. The Local Government of Quezon City*,³⁵ the Court, among other things, declared void all the real property tax assessments issued against the Philippine Heart Center, and held that it is the taxable person with beneficial use who shall be responsible for the payment of real property taxes due on government properties. Any remedy for the collection of taxes should be directed to the taxable person, since the action is *in personam*.

What about the contractual liability of PPA under Paragraph 8 of the Contract of Lease?

To be sure, it was PPA's predecessor, BBRPM, which contractually assumed the obligation to pay the real property taxes under Paragraph 8 of the Contract of Lease, and which obligation was passed on to PPA.

This Court has consistently reiterated that the contractual assumption of obligation, as in this case, is by itself insufficient to make one liable for taxes. It must be supplemented by an interest that the party assuming the liability had on the property. The person from whom payment is sought must also have acquired the beneficial use of the property taxed which means that he must have the use and possession of the property.³⁶

In this case, while the tax liability is being assumed by PPA, the use and possession of the leased property is lodged on petitioner.

In fine, the tax liability must be a liability that arises from law, which the local government unit can rightfully and successfully enforce, not the contractual liability that is enforceable only between the parties to the contract.³⁷ As such, it is clearly petitioner who bears

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³⁵ G.R. No. 225409, 11 March 2020. Penned by Associate Justice Amy C. Lazaro-Javier, with the concurrence of Chief Justice Diosdado M. Peralta, and Associate Justices Alfredo Benjamin S. Caguioa, Jose C. Reyes, Jr. (ret.) and Mario V. Lopez.

³⁶ *Provincial Government of Cavite and Provincial Treasurer of Cavite v. CQM Management, Inc.*, G.R. No. 248033, 15 July 2020. Penned by Associate Justice Henri Jean Paul B. Inting, with the concurrence of Senior Associate Justice Estela M. Perlas-Bernabe and Associate Justices Ramon Paul I. Hernando, Edgardo L. Delos Santos and Samuel H. Gaerlan.

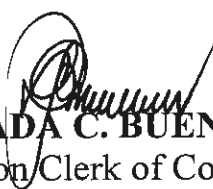
³⁷ *National Power Corporation v. Province of Quezon*, G.R. No. 171586, 25 January 2010. [Per J. Brion]

the responsibility to pay the real property tax. He is, therefore, not entitled to a refund of the Php2,266,686.68 he paid under protest to the City of Manila. Moreover, it is only Atty. Estampador who can demand compliance from PPA with respect to the contractual obligation it assumed under Paragraph 8 of the Contract of Lease, not the City of Manila.

WHEREFORE, the foregoing premises considered, the Petition is hereby **PARTIALLY GRANTED**. The Decision dated 05 November 2015 and Resolution dated 28 July 2016 of the Court of Tax Appeals in CTA EB Case No. 1109, are **REVERSED and SET ASIDE**. Petitioner Atty. Racimo R. Estampador is **NOT ENTITLED** to a refund of the Two Million Two Hundred Sixty-Six Thousand, Six Hundred Eighty-Six Pesos and Sixty-Eight Centavos (Php2,266,686.68) he paid to the City of Manila.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
8/4/21

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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(CBAA Case No. L-123)

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