

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

EN BANC

NATIONAL FOOD  
AUTHORITY, Represented by  
Acting Regional Manager Felimon  
T. Cangrejo of NFA-ARMM,  
Petitioner,

CTA EB NO. 2465  
(CTA AC No. 202)

*Present:*

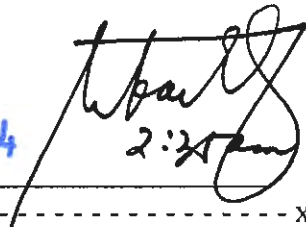
- versus -

MUNICIPALITY OF SHARIFF  
AGUAK, TREASURER OF  
SHARIFF AGUAK  
MAGUINDANAO AND  
MUNICIPAL ASSESSOR OF  
SHARIFF AGUAK  
MAGUINDANAO,  
Respondents.

DEL ROSARIO, P.J.,  
RINGPIS-LIBAN,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO,  
CUI-DAVID,  
FERRER-FLORES, *and*  
ANGELES, JJ.

Promulgated:

DEC 13 2024

A handwritten signature in black ink is written over a blue date stamp that reads "DEC 13 2024". Below the date stamp, the time "2:28 pm" is handwritten in black ink.

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AMENDED DECISION

**FERRER-FLORES, J.:**

Before this Court is the *Motion for Reconsideration* filed on November 21, 2023 by the **National Food Authority (NFA/petitioner)**, without comment from **Municipality of Shariff Aguak, Treasurer of Shariff Aguak Maguindanao, and Municipal Assessor of Shariff Aguak Maguindanao (Respondents)** despite notice, as per *Records Verification* dated May 24, 2024.

In the instant *Motion*, the NFA prays that the Court *En Banc* reconsiders its Decision dated October 31, 2023 (**assailed Decision**)<sup>1</sup> which denied the

<sup>1</sup> *Rollo*, pp. 97 to 111

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*Petition for Review (Under Rule 8 of A.M. No. 05-11-07-CTA) With Motion for Suspension of Collection of Tax (Petition for Review)* dated May 24, 2021 for lack of merit and affirmed as to the result the Decision dated July 22, 2020 (**assailed Division Decision**)<sup>2</sup> and the Resolution dated March 4, 2021 (**assailed Division Resolution**)<sup>3</sup> both rendered by the then Second Division of the Court (**Court in Division**).

The dispositive portion of the assailed Decision reads as follows:

**WHEREFORE**, premises considered, *the Petition for Review with Motion for Suspension of Collection of Tax* is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated July 22, 2020 and assailed Resolution dated March 4, 2021 in CTA AC No. 202 are **AFFIRMED as to the result**.

**SO ORDERED.**

To recall, this Court declared that petitioner NFA falls within the definition of a government-owned or controlled corporation (GOCC) and has long been treated as such; thus, petitioner is taxable as a GOCC for RPT purposes. Consequently, the validity of the RPT assessment against petitioner was upheld.

In petitioner NFA's *Motion for Reconsideration*, it maintains that it is exempt from real property taxes pursuant to its charter Presidential Decree (P.D.) No. 4<sup>4</sup> and such exemption has not been withdrawn nor repealed despite the effectivity of the Local Government Code (LGC) of 1991.<sup>5</sup> Petitioner further argues that it is government instrumentality with corporate powers (GICP) which is exempted from real property taxes under the LGC. The NFA also insists that it is not a GOCC as it is neither a stock nor a non-stock corporation.

**RULING OF THE COURT EN BANC**

The present *Motion for Reconsideration* is meritorious.

After a careful re-evaluation of the case and the arguments raised by the NFA in its *Motion for Reconsideration* and in view of the recent

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<sup>2</sup> Penned by Associate Justice Catherine T. Manahan and concurred in by Presiding Justice Roman G. Del Rosario; *Rollo*, pp. 45 to 67.

<sup>3</sup> *Rollo*, pp. 72 to 78.

<sup>4</sup> Providing for the Development of the Rice and Corn Industry and Creating for this Purpose the National Grains Authority, *National Grains Industry Development Act*, PD No. 4, September 26, 1972.

<sup>5</sup> Republic Act No. 7160 dated October 10, 1991, effective January 1, 1992.

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pronouncement of the Supreme Court in *National Food Authority vs. City Government of Tagum*,<sup>6</sup> this Court is constrained to reconsider its earlier disquisitions. We expound.

Central to the resolution of the present controversy of the NFA's exemption from RPT is its status as a government entity, particularly, whether it is a government instrumentality or a GOCC. This is because Sections 133(o) and 234 of the LGC of 1991 provides for exemption from RPT in this wise:

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:

xxx    xxx    xxx

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

xxx    xxx    xxx

SECTION 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;
- (b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;
- (c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or -controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;
- (d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and
- (e) Machinery and equipment used for pollution control and environmental protection.

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<sup>6</sup> G.R. No. 261472, May 21, 2024.

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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.** (*Emphasis supplied*)

Based on the foregoing, in general, government instrumentalities are exempt from RPT, while, the RPT exemption previously granted to, or presently enjoyed by GOCCs, among others, was withdrawn upon the effectivity of LGC of 1991. As such, GOCCs are now subject to RPT.

On May 21, 2024, no less than the Supreme Court promulgated *National Food Authority vs. City Government of Tagum*<sup>7</sup> addressing the very same issue of NFA's RPT exemption which shall be discussed below.

***Petitioner is a government instrumentality.***

In *National Food Authority vs. City Government of Tagum*,<sup>8</sup> the Supreme Court categorically held that petitioner NFA is a **government instrumentality** having met the criteria laid down in *Philippine Heart Center vs. The Local Government of Quezon City, et al.* We quote:

To recall, Republic Act No. 10149 was passed into law, incorporating the classification of and definition of government instrumentalities, as follows:

Section 3(n). *Definition of Term.* — **Government Instrumentalities with Corporate Powers (GJCP)/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

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<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

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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)

In *Philippine Heart Center v. The Local Government of Quezon City, et al.*, for an agency to be classified as a government instrumentality vested with corporate powers, the following elements must concur: (a) it performs governmental functions; and (b) it enjoys operational autonomy. NFA passes these twin criteria.

(1) *NFA performs special governmental functions.* When NFA was transformed into a government corporation attached to the Office of the President under Presidential Decree No. 1770, its powers and functions were broadened for the purpose of promoting the integrated growth and development of the grains industry so that it can adequately function as an institution conscious of its social responsibilities and capable of providing adequate and continuous food supply to the nation and of contributing to its proper share to national economy.

The passage of Republic Act No. 11203 or the "Rice Tariffication Law" repealed several provisions of the charter of NFA. Under Section 8 thereof, it was mandated to maintain sufficient rice buffer stock to be sourced solely from local farmers to be used for emergency situations and to sustain the disaster relief programs of the government during natural or man-made calamities.

Thus, *NFA was refocused on the acquisition, maintenance, and distribution of rice buffer stock.* It shall maintain an optimal level of national rice inventory to be sourced solely from local farmers and to distribute rice during emergency/calamity situations and sustain the disaster relief program of the government during natural or man-made calamities. It thus performs essential public service.

(2) *NFA is vested with corporate powers under Presidential Decree No. 4, as amended.* Its powers and functions for this purpose — the acquisition, maintenance, and distribution of rice buffer stock — remain, including its capitalization, funding, and sovereign guarantee. *It is still a government corporation as designated under Presidential Decree No. 1770 under the supervision and control of the Department of Agriculture.*

NFA therefore bears the essential characteristics of a government instrumentality vested with corporate powers and exempt from real property taxes. NFA's corporate status does not divest itself of its character as a government instrumentality. For despite its corporate status, it is really the resources and reputation of the Republic that are at stake in the capitalization and operations of the government entity.

(3) *NFA is not a GOCC. It was not organized as a stock or non-stock corporation.*

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Under Section 3 of the Revised Corporation Code, corporations formed or organized under this Code may be stock or non-stock corporations. Stock corporations are those which have capital stock divided into shares and are authorized to distribute to the holders of such shares, dividends, or allotments of the surplus profits on the basis of the shares held. All other corporations are non-stock corporations.

While it has capitalization divided into shares of stock wholly owned by the National Government, it has no stockholders or voting shares. It is not even authorized to declare, much less, distribute dividends. Its surpluses (or income) are controlled by the President of the Philippines in accordance with fund requirements of the NFA and funds available in the Treasury. Thus, it is not a stock corporation. Nor is it a non-stock corporation because it has no members. Even if we were to assume that the National Government is its sole member, it is still not a non-stock corporation as a non-stock corporation cannot distribute any part of their income to their members.

(4) *NFA is operationally autonomous.* NFA is not integrated within the department framework, only under the supervision and control of the Department of Agriculture. Under Executive Order No. 62, the NFA Council, the governing NFA body corporate was reorganized designating the following officials:

xxx    xxx    xxx

In sum, **NFA is a government instrumentality.** While it is not integrated within the department framework, it is vested with special functions or jurisdiction and endowed with some corporate powers. It administers special funds and enjoys operational autonomy under a charter. *(Emphasis and italics in the original; citations omitted)*

In view of the foregoing discussion, the NFA is a government instrumentality vested with special functions and corporate powers which administers special funds while enjoying operational autonomy.

With that being settled, the NFA's exemption from RPT likewise follows.

***Petitioner is exempt from RPT.***

As cited earlier, the LGC of 1991 provides that the taxing powers of the LGUs does not extend to the levy of taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.<sup>9</sup> Furthermore, real property owned by Republic of the Philippines or any of its political subdivisions are exempt from RPT, except

<sup>9</sup> Section 133(o) of the LGC of 1991.

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when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.<sup>10</sup>

Inasmuch as the NFA has been declared to be a government instrumentality, it also follows that its properties are generally exempt from RPT. The Supreme Court, in *National Food Authority vs. City Government of Tagum*,<sup>11</sup> discussed the NFA's exemption in this wise:

A government instrumentality falls under Section 133 (o) of the Local Gov't. Code states:

XXX XXX XXX

It recognizes the basic principle that local governments cannot tax the national government, which historically 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."

More, given the mandate and purpose of NFA, its status as a government instrumentality, its properties are thus properties of public dominion intended for public use or service. As such, they are exempt from real property tax under Section 133 (o) but under Section 234 (a) of the Local Gov't. Code.

XXX XXX XXX

In *Philippine Heart Center v. The Local Government of Quezon City, et al.*, the Court categorically ruled that properties of public dominion are outside the commerce of man. These properties are exempt from levy, encumbrance, or disposition through public or private 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.

Nevertheless, the exemption from real property under Section 234 (a) of the LGC is not available when the beneficial use has been granted to, for and in consideration or otherwise, to a taxable person. Thus, the Court has invariably held that a government instrumentality, though vested with corporate powers, are exempt from real property tax but the exemption shall not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested.

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<sup>10</sup> Section 234(a) of the LGC of 1991.

<sup>11</sup> *Supra* at note 6.

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In *Lung Center of the Philippines v. Quezon City*, the Court ordained 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 real property 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.

Too, in *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila*, the Court nullified the real property tax assessments issued by the City of Manila to the Government Service Insurance System, except the assessment pertaining to the leased Katigbak property served on the Manila Hotel Corporation as lessee which has actual and beneficial use thereof.

Further, in *PFDA v. Central Board of Assessment Appeals*, the Court declared void all the real property tax assessments issued by the City of Lucena on the Lucena Fishing Port Complex except for the portions that the Philippine Fisheries Development Authority has leased to private parties.

Finally, in *MWSS v. Local Government of Quezon*, the Court declared the real properties of the MWSS exempt from the real property taxes imposed by the Quezon City Government. It also nullified all the real estate tax assessments, including the final notices of real estate tax delinquencies, issued on the real properties of the MWSS in Quezon City except for the portions that were alleged and proven to have been leased to private parties.

As there are no allegations here that the beneficial use of the real properties of NFA belongs to a taxable person, its land, buildings, and machineries, located in Barangay Magdum, Tagum City, Province of Davao del Norte are exempt from real property tax under Section 133 (o) and Section 234 (a) of the LGC of 1991, as amended.

For the RPT exemption to be operative, the question now is whether or not the beneficial use of the subject real properties has been granted to a taxable person.

We answer in the negative.

In the *Petition For Review* before this Court, the NFA alleged that the subject real properties are being utilized by NFA in furtherance of its public service operations.<sup>12</sup> It further averred that the properties are being used by NFA as office building and warehouse facilities to fulfill its mandate of food security, particularly, of maintaining buffer stock in the area.<sup>13</sup> The same was not controverted by the respondents. Verily, the beneficial use of the subject

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<sup>12</sup> Par. 39 of the *Petition for Review*, Rollo p. 18.

<sup>13</sup> Par. 65 of the *Petition for Review*, Rollo pp. 31 to 32.



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properties has not been granted to a taxable person but rather, it is NFA, a government instrumentality, utilizing the properties. As such, the subject real properties should be exempt from RPT.

In sum, since petitioner NFA is a government instrumentality, its real properties which are being used by NFA for public service are exempt from RPT. Accordingly, the *Notice of Discrepancy* issued by respondents is void for lack of legal basis.

In fine and in view of the recent pronouncement of the Supreme Court, the Court *En Banc* finds that the reversal of the assailed Decision is in order.

Indeed, the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is. It is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.<sup>14</sup> This Court is therefore bound to faithfully uphold and apply the pronouncements of the High Court.

**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration* is hereby **GRANTED**. Accordingly, the assailed Decision dated October 31, 2023 is hereby **REVERSED** and **SET ASIDE**.

In view thereof, the Decision dated July 22, 2020 and the Resolution dated March 4, 2021 both rendered by the Second Division of this Court in CTA AC No. 202 are **REVERSED** and **SET ASIDE**. The *Notice of Delinquency* dated January 30, 2017 issued against petitioner National Food Authority by respondent Municipal Treasurer of Shariff Aguak, Maguindanao is hereby declared **NULL** and **VOID**.

**SO ORDERED.**

  
**CORAZON G. FERRER-FLORES**  
Associate Justice

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<sup>14</sup> *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003, citing *Government Service Insurance System vs. Court of Appeals*, G.R. No. 101632, January 13, 1997.

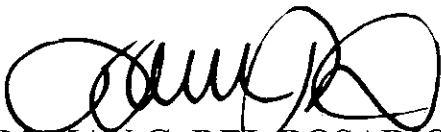
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**WE CONCUR:**



**ROMAN G. DEL ROSARIO**  
Presiding Justice



**MA. BELEN M. RINGPIS-LIBAN**  
Associate Justice



**CATHERINE T. MANAHAN**  
Associate Justice



**JEAN MARIE A. BACORRO-VILLENA**  
Associate Justice



**MARIA ROWENA MCDESTO-SAN PEDRO**  
Associate Justice

**ON LEAVE**

**MARIAN IVY F. REYES-FAJARDO**  
Associate Justice



**LANEE S. CUI-DAVID**  
Associate Justice



**HENRY S. ANGELES**  
Associate Justice

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**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO

Presiding Justice