

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**MUNICIPAL (now CITY)
GOVERNMENT OF TAGUIG,
MUNICIPAL (now CITY)
TREASURER OF TAGUIG, and
their duly authorized
representatives,**

Petitioners,

- versus -

**CTA EB NO. 2522
(CTA AC No. 212)**

Present:

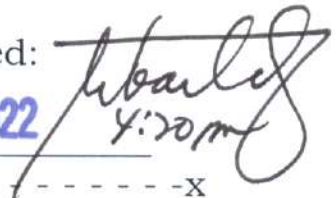
**DEL ROSARIO, PJ,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, JJ.**

**VETERANS FEDERATION OF THE
PHILIPPINES,**

Respondent.

Promulgated:

NOV 04 2022



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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a Petition for Review¹ under Section 3 (b), Rule 8² of the Revised Rules of the Court of Tax Appeals (RRCTA)³ assailing the Decision dated September 25, 2020 (assailed Decision), and the Resolution dated March 16, 2021 (assailed Resolution) of the CTA Third Division (Court in Division) in CTA AC No. 212, which denied petitioners Municipal (now City) Government of Taguig and Municipal (now City) Treasurer of Taguig's appeal and motion for reconsideration, respectively.

¹ *En Banc (EB)* Docket, pp. 38-191, with annexes.

² SEC. 3. *Who may appeal; period to file petition.* – (a) xxx; (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

³ A.M. No. 05-11-07-CTA, November 22, 2005.

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THE PARTIES

Petitioner Municipality (now City) Government of Taguig is a political subdivision of the government, existing under and by virtue of Republic Act (RA) No. 7160, otherwise known as the Local Government Code (LGC), RA No. 8487 or the Charter of the City of Taguig, and other laws of the Philippines, with legal personality to sue and be sued. It is represented by its Mayor, Hon. Lino Edgardo S. Cayetano.

Petitioner Municipal (now City) Treasurer of Taguig is vested with the authority to exercise the functions of his office, including, among others, the implementation of the Revenue Code of the City of Taguig (Revenue Code) and pertinent provisions of the LGC, the assessment and collection of local taxes, fees within the jurisdiction of Taguig City, as well as the issuance of Warrant of Levy and Notice of Auction. He is represented herein by the Officer-in-Charge (OIC)-City Treasurer of the City of Taguig, Atty. Jonathan Voltaire L. Enriquez.

Petitioners may be served with pleadings, orders, and other processes of this Court through their counsel, the City Legal Office, with office address on the 4th floor, Taguig City Hall, General Luna Street, Tuktukan, Taguig City.

Respondent Veterans Federation of the Philippines (VFP) is a corporate body created on June 18, 1960, by virtue of RA No. 2640. It may be served with pleadings, orders and other process of this Court through its counsel, the Office of the Government Corporate Counsel, with office address at 3rd Floor, MWSS Building, Katipunan Road, Balara, Quezon City.

THE FACTS

This case originated from a petition for declaration of nullity of warrant of levy and the notice of publication and auction sale with prayer for Temporary Restraining Order (TRO) and writ of preliminary injunction,⁴ filed by respondent before the Regional Trial Court (RTC) of Pasig City, Branch 155, docketed as Civil Case No. 67856. The facts, as found by the Court in Division, are as follows:

⁴ EB Docket, Annex "B" of the Petition for Review, pp. 113-139.

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The subject matter under contention is a fifty (50)-hectare property located at Western Bicutan, Taguig, Metro Manila. The said property has been set aside, pursuant to Proclamation No. 192, to serve as a center for the different activities of Filipino war veterans, including Veterans Rehabilitation, Medicare and Training Center, headquarters for the various veteran's organizations, and other allied activities. The property is known as the "Veterans Center."

As culled from the records of this case, the controversy started when respondent received from the City Treasurer, on 23 February 2000, a Warrant of Levy dated 18 February 2000. The Warrant of Levy provided that the Veterans Center was delinquent in paying RPT in the total amount of ₱98,953,291.47 covering tax years 1989 up to 1999.

In reply, respondent wrote a letter to the City Treasurer, dated 8 March 2000, stating that it is exempt from payment of any taxes under Section 11 of RA No. 2640 and RA No. 7291.

On 21 March 2000, respondent received a Notice of Publication and Auction Sale, dated 20 March 2000, which indicated that the Veterans Center was included in the List of Delinquent Real Properties which was to be published in the Philippine Daily Inquirer ("PDI") in preparation for its public auction on 24 April 2000 at the ground floor, Office of the City Treasurer between the hours of 2:00 P.M. and 5:00 P.M.

Subsequently, on 28 March 2000, respondent filed the original Petition with the RTC of Pasig against petitioners and PDI as publisher of the Notice of Auction.

In the Petition, respondent prayed for the RTC to declare the Warrant of Levy, and the Notice of Publication and Auction Sale issued by the City Treasurer null and void. Likewise, it prayed for the Lower Court to issue a Temporary Restraining Order ("TRO") and a Preliminary Injunction and to order the petitioners and PDI to pay attorney's fees and cost of suit.

On 31 March 2000, the RTC granted the TRO and ordered the petitioners to enjoin from proceeding with the publication and auction sale of the Veterans Center for twenty (20) days, starting 31 March 2000.

Thereafter, petitioners filed their Answer with Compulsory Counterclaim on 5 April 2000. They alleged that the Veterans Center is subject to RPT. They also claimed actual and moral damages and attorney's fees by way of compulsory counterclaim.

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On 19 April 2000, the RTC issued a Writ of Preliminary Injunction in favor of respondent, after the same posted an injunction bond of ₱10,000,000.00.

PDI filed its Answer on 22 June 2000.

After the RTC dismissed the case for failure to prosecute on 8 March 2001, and subsequently reinstated the same on 27 March 2001, the parties were ordered to file their respective Pre-Trial Briefs. PDI, respondent, and petitioners filed their Pre-Trial Briefs on 24 April 2001, 30 April 2001, and 21 June 2001, respectively.

With the filing of the parties' respective Pre-Trial Briefs, the RTC set the case for Pre-Trial. However, after numerous resetting made by the parties, the RTC issued an Order, dated 26 August 2003, declaring the respondent non-suited and dismissing the case for failure to prosecute. The case was later on reinstated by the RTC on 18 September 2003.

On 15 September 2004, the RTC issued an Order referring the case to the Philippine Mediation Center ("PMC") for mediation proceedings. Since the parties failed to mediate, the case was set for Pre-Trial Conference.

On 3 January 2007, Great Domestic Insurance Company of the Philippines, Inc., the bonding company which issued respondent's injunction bond, posted a Motion for Cancellation of Bond. It alleged that respondent failed to pay the bond premium despite notice. Thereafter, on 12 January 2007, the RTC granted the bonding company's Motion and ordered the injunction bond cancelled. Meanwhile, respondent was granted a period of thirty (30) days to post a new injunction bond.

On 19 January 2007, the respondent filed its Very Urgent Motion for Contempt asking the court to cite the then City Treasurer, Atty. Rosario Reyes, in contempt on the ground that she intentionally and deliberately defied the existing Injunction and sold the Veterans Center at public auction.

Subsequently, respondent filed its new injunction bond issued by South Sea Surety Insurance Co., Inc. on 24 January 2007. Once again, on 26 June 2007, the RTC issued an Order dismissing the case for failure to prosecute. The respondent filed its Very Urgent Motion for Reconsideration and to Set Case for Pre-Trial seeking reconsideration of the RTC's latest order of dismissal. On 27 July 2007, the RTC issued an Omnibus Order, granting respondent's Very Urgent Motion for Reconsideration and to

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Set Case for Pre-Trial but denying its Very Urgent Motion for Contempt.

On 19 February 2008, the RTC issued the Pre-Trial Order terminating the Pre-Trial stage and setting the case for trial.

Respondent presented Atty. Horatio Dante R. Mauricio, Assistant General Manager of VFP. His testimony reiterated the respondent's allegations in its Petition, and he identified documents referred to in his Affidavit dated 20 May 2008.

During his cross-examination, he averred that the Veterans Federation of the Philippines Industrial Center ("VFPIC") is the office that manages and leases out part of the Veterans Center to the public, which includes commercial enterprises. He stated that VFPIC only manages the Veterans Center. He admitted that there are improvements in the property, such as roads, warehouses, and around thirty (30) buildings, some of which are owned by Peter Built, Panasonic, JY & Sons, among others. Meanwhile, he confirmed that respondent owned around three (3) or four (4) buildings inside the Veterans Center which are used for rehabilitation, medical services, and training programs. Finally, he testified that the ownership of the Veterans Center belongs to the National Government and that the ownership of the said property has not been transferred to VFP but only its possession. Next, respondent presented Orestes F. Lopez, Treasurer General of VFP. He testified that VFPIC is the office in charge of the Veterans Center. He said that the Veterans Center is owned by the National Government which was allocated to VFP for purposes of ensuring that its members are properly taken care of, pursuant to RA No. 2640. He explained that the Veterans Center houses the Veterans Federation of the Philippines Out-patient Clinic, which serves veterans from all over Luzon, and a War Museum/Library and archives which perpetuate the veterans' war experiences. He also stated that all revenues realized by the respondent are used for the benefit of its members under its purpose. He identified respondent's Financial Reports for the years 2003-2007 to prove his claim.

During his cross-examination, he testified that the outpatient clinic and museum are exclusively devoted to charitable and non-profitable activities. He also confirmed that aside from the area occupied by both structures, the rest of the 50-hectare property is being leased out. He explained that all rental revenues are used exclusively for the benefit of the veterans under RA No. 2640.

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On 3 December 2008, respondent filed its Formal Offer of Evidence. The RTC admitted all pieces of evidence it presented and offered.

On 20 April 2009, PDI filed its Demurrer to Evidence arguing that it has nothing to do with the principal claim of the respondent. The same was denied by the RTC on 11 August 2009.

Subsequently, on 29 August 2012, the RTC issued an Order ruling that petitioners' right to present evidence is considered waived due to their failure to present evidence despite notice. The petitioners sought reconsideration of the said Order which the RTC granted on 29 November 2012.

Thereafter, the petitioners presented their witnesses.

Their first witness was Mr. Teodoro S. Cruz, who was the Head of the RPT Division of the Office of the City Treasurer, Taguig City. He testified that part of his duties is to take charge of delinquent accounts of taxpayers. He said that the registered owner of the Veterans Center, as indicated on the Tax Declaration, is the respondent. He mentioned that the description of the Veterans Center on the Tax Declaration is Industrial. He explained that RA No. 7291 did not restore respondent's RPT exemption. He said that the Veterans Center is being leased out to commercial enterprises and generates huge revenues. Considering that the property in its entirety is not actually, directly, and exclusively used for charitable purposes, the petitioners charged respondent for RPT. He also explained that respondent had not been paying RPT and that as of the year 2013, respondent's RPT liability reached P477,127,008.96, including penalties and interest. He also testified that the petitioners' issuance of the Tax Assessment Notice, Warrant of Levy, and other legal documents were done in accordance with law.

In his cross-examination, Mr. Cruz admitted that he was still not connected with the RPT Division in the year 2000 when the Notice of Publication and Auction Sale and Warrant of Levy were issued. He admitted that the office-in-charge of granting tax exemptions is the Assessor's Office and not his office. He also confirmed that his function does not include access to copies of lease contracts involving properties leased-out in Taguig City. Hence, his answer in his Judicial Affidavit stating that respondent receives huge revenues from its leasing operation is only based on his assumption. He mentioned that the businesses that lease portions of the Veterans Center are taxable entities that pay RPT on the buildings and improvements constructed therein. He also admitted that the Notice of Publication and Auction



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Sale published by PDI did not push through. Hence, respondent did not sustain damages.

Next, petitioners presented Engr. Roberto S. Villaluz, the OIC of the Office of the City Assessor of Taguig City. He testified that his main duty is to conduct real property assessment, reclassify real properties based on their actual use, keep records of all transactions involving real property registration, and other related tasks. He said that based on his office records, respondent is the owner of the Veterans Center, where the actual use of the land is declared "Industrial." He testified that, although Proclamation No. 192 states that the Veterans Center shall serve as the center for the different activities of Filipino war veterans, in reality, a vast portion of the said property is devoted to commercial use. He also said that per his records, the Veterans Center is not exempted from paying RPT since it is not indicated on the tax declaration that it is exempt from paying the said tax. He also confirmed that respondent did not apply for exemption from RPT.

During his cross-examination, Engr. Villaluz confirmed that it is his Office which determines whether a property is exempt from RPT. At the same time, he admitted that he did not consider RA No. 2640 and RA No. 7291 in determining whether respondent is exempted from RPT. He also mentioned that he was only appointed in 2010 and thus was not aware whether respondent had previously filed a claim for tax exemption in relation to its use of the Veterans Center.

Lastly, petitioners presented Mr. Jameson Mapalad, Administrative Aide III of the Business Permit & Licensing Office ("BPLO") of Taguig City. He testified that his main duty is to assess Business Tax imposed against taxpayers who are operating in Taguig City. Per records of his office, the Veterans Center is the location of around one (100) hundred business establishments. Some of these establishments are wholesalers and retailers, namely, J.Y. & Sons, Peterbilt Property Ventures, and Panorama Development Corporation.

In his cross-examination, Mr. Mapalad admitted that his basis in determining ownership of property within Taguig City is the SEC Registrations and contracts of lease submitted by the business establishments. He also affirmed that the said documents are his bases in saying that respondent is the owner of the Veterans Center.

On 18 May 2016, petitioners filed their Formal Offer of Evidence. The RTC admitted all the pieces of evidence submitted by the same.



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Thereafter, PDI presented its own witness and documentary evidence.

Subsequently, respondent and petitioners filed their respective Memoranda on 12 July 2017, and 14 July 2017.

On 11 December 2017, the RTC rendered the assailed Decision granting respondent's Petition, and declaring the Warrant of Levy, and Notice of Publication and Auction Sale null and void, to wit:

"WHEREFORE, the petition is **GRANTED**.
As prayed for, the Warrant of Levy dated February 18, 2000 and the Notice of Publication and Auction Sale dated March 20, 2000 are hereby **DECLARED NULL** and **VOID**.

Petitioner's claims for attorney's fees as well as the respective counterclaims of the respondents are **DISMISSED** for want of evidentiary basis.

SO ORDERED."

Aggrieved, petitioners posted their Motion for Reconsideration on 27 February 2018. The same was denied by the RTC on 8 October 2018.

Thereafter, the petitioners filed their Petition for Review with this Court on 7 December 2018.

On 15 February 2019, the respondent posted its Comment (on Petitioner's 6 December 2018 Petition for Review), which was within the extended period granted by this Court.

On 6 March 2019, the RTC elevated the case records of the above-captioned case to this Court.

Following the parties filing of their respective Memoranda on 27 June 2019 for the respondent, and 29 July 2019 for the petitioners, this Court issued a Resolution on 24 October 2019 submitting the case for decision.

On September 25, 2020, the Court in Division promulgated the assailed Decision in favor of respondent and disposed of the case as follows:

WHEREFORE, premises considered, the instant Petition for Review filed on 7 December 2018 is **DENIED** for lack of merit.

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SO ORDERED.

On October 30, 2020, petitioners filed a Motion for Reconsideration⁵ of the above Decision which they received, through counsel, on October 15, 2020. Respondent filed through registered mail an Opposition⁶ thereto on December 3, 2020, which the Court in Division received on December 16, 2020.

On March 16, 2021, the Court in Division promulgated the assailed Resolution denying petitioners' Motion for Reconsideration, which petitioners received on August 5, 2021. The *fallo* reads:

WHEREFORE, premises considered, respondent's Motion for Reconsideration ([o]f the Decision dated 25 September 2020) is hereby **DENIED** for lack of merit.

SO ORDERED.

On July 30, 2021, the Supreme Court issued Administrative Circular No. 56-2021⁷ suspending the time for filing and service of pleadings and motions during the physical closure of all courts and judicial offices in the National Capital Region (NCR) due to the heightened restrictions.

On October 18, 2021, in view of the lowered restrictions within the NCR, the Supreme Court issued Administrative Circular No. 83-2021⁸ lifting the suspension for filing and service of pleadings and motions in all appellate collegial courts within the NCR, which shall resume seven (7) calendar days from October 20, 2021.

On October 26, 2021, petitioners filed a Motion for Extension of Time to File Petition for Review (of the Decision dated September 25, 2020),⁹ which the Court granted in a Minute Resolution dated November 2, 2021.¹⁰ The Court gave petitioners a final and non-extendible period of fifteen (15) days from October 27, 2021, or until November 11, 2021, to file a Petition for Review.

⁵ Division Docket, pp. 236-248.

⁶ *Id.*, pp. 250-259.

⁷ Re: Court Operations on 2-20 August 2021, July 30, 2021.

⁸ Re: Court Operations Beginning October 20, 2021 until October 29, 2021, October 18, 2021.

⁹ EB Docket, pp. 1-36; Division Docket, pp. 285-317.

¹⁰ EB Docket, p. 37.

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On November 11, 2021, petitioners filed the present Petition for Review *via* registered mail, which the Court *En Banc* received on November 23, 2021.

On March 11, 2022, respondent filed its Comment (to Petition for Review)¹¹ dated March 7, 2022.

On April 8, 2022, the Court submitted this case for decision.

THE ISSUES

Petitioners assign the following errors for the resolution of this Court:

A.


THE HONORABLE CTA-DIVISION COMMITTED A REVERSIBLE ERROR IN FINDING RESPONDENT VFP A GOVERNMENT INSTRUMENTALITY, AND THUS, EXEMPT FROM PAYMENT OF REAL PROPERTY TAX.

B.

THE HONORABLE CTA-DIVISION COMMITTED REVERSIBLE ERROR IN FINDING THAT THE LIABILITY TO REAL PROPERTY TAX WITH RESPECT TO PORTIONS OF VETERANS CENTER THAT HAVE BEEN LEASED TO PRIVATE TAXABLE ENTITIES DOES NOT PERTAIN TO RESPONDENT VFP BUT RATHER TO TAXABLE PERSONS WHO HAD ACTUAL OR BENEFICIAL USE AND POSSESSION OF THE PROPERTY.

C.

THE HONORABLE CTA-DIVISION COMMITTED REVERSIBLE ERROR IN AFFIRMING THE HONORABLE REGIONAL TRIAL COURT'S ORDER DECLARING AS NULL AND VOID THE WARRANT OF LEVY DATED 18 FEBRUARY 2000 AND NOTICE OF PUBLICATION DATED 20 MARCH 2000.


¹¹ *EB* Docket, pp. 196-214; Division Docket, pp. 472-490.

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Petitioners' arguments

Petitioners argue that respondent VFP is a non-stock, non-profit organization that is not exempt from paying RPT, as admitted by the respondent in its pleadings and as shown in its documentary evidence.

In addition, petitioners aver that the exemption contemplated under RA No. 7291 refers to internal revenue taxes and customs duties imposed by the National Government. However, even assuming that respondent is a government instrumentality, petitioners contend that respondent is still subject to RPT because a vast portion of its property is devoted to industrial and commercial use by taxable persons, which are not in support of the purposes for which respondent was created.

Petitioners insist that respondent, as the declared owner of subject property, bears the responsibility and burden of paying the RPT as provided under Section 234 (a) of the LGC. Hence, petitioners maintain that the Court in Division erred in sustaining the RTC's ruling declaring null and void the Warrant of Levy and Notice of Publication and Auction Sale issued against respondent.

Respondent's counter-arguments

Respondent claims that this Petition must be dismissed for being baseless and unmeritorious. Respondent posits that it was created by virtue of RA No. 2560 to represent and defend the interests of veterans. Respondent asserts that its funds are public in nature, which are sourced from membership dues and rentals earned from the lease of a portion of the Veterans Center; these funds are used solely for public purpose, *i.e.*, exclusive benefit of its members.

Respondent further alleges that the Veterans Center is a property of public dominion as it is owned by the National Government and is only administered by the VFP, pursuant to Proclamation No. 192. Hence, respondent insists that it is exempt from tax. However, assuming that the leased area of the Veterans Center is subject to RPT, respondent states that it should not be held liable for its payment; instead, the

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collection of RPT must be against the lessees with actual and beneficial use of the property.

THE COURT EN BANC'S RULING

The Court En Banc has jurisdiction over the instant Petition for Review that was timely filed.

On August 5, 2021, petitioners received a copy of the assailed Resolution denying their Motion for Reconsideration for lack of merit. Under Section 3(b), Rule 8,¹² in relation to Section 2(a)(1), Rule 4¹³ of the RRCTA, petitioners had 15 days, or until August 20, 2021, to file a Petition for Review before the Court *En Banc*. However, on July 30, 2021, the Supreme Court issued Administrative Circular No. 56-2021¹⁴ suspending the time for filing and service of pleadings and motions during the physical closure of all courts and judicial offices in the National Capital Region (NCR) due to the heightened restrictions.

On October 18, 2021, in view of the lowered restrictions within the NCR, the Supreme Court issued Administrative Circular No. 83-2021¹⁵ lifting the suspension for filing and service of pleadings and motions in all appellate collegial courts within the NCR, which shall resume seven (7) calendar days from October 20, 2021.

On October 26, 2021, petitioners filed a Motion for Extension of Time to File Petition for Review (of the Decision dated September 25, 2020), which the Court granted in a Minute Resolution dated November 2, 2021. The Court gave

¹² RULE 8 - Procedure in Civil Cases. SEC 3. *Who May Appeal: Period to File Petition.* - (a) xxx

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

¹³ RULE 4 - Jurisdiction of the Court. SEC 2. *Cases Within the Jurisdiction of the Court en banc.* - The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies - Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; xxx

¹⁴ Re: Court Operations on 2-20 August 2021. July 30, 2021.

¹⁵ Re: Court Operations Beginning October 20, 2021 until October 29, 2021. October 18, 2021.

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petitioners a final and non-extendible period of fifteen (15) days from October 27, 2021, or until November 11, 2021, to file a Petition for Review.

On November 11, 2021, petitioners filed *on time* the instant Petition for Review.¹⁶

The Court in Division did not err in finding respondent VFP a government instrumentality exempt from payment of real property tax.

Petitioners ascribe error to the Court in Division when it categorized respondent as a government instrumentality defined under Section 2 (10) of the Introductory Provisions of the Executive Order No. 292, otherwise known as the Administrative Code of 1987.¹⁷

Petitioners claim that respondent VFP is a non-stock, non-profit organization *not exempt* from paying RPT; that respondent declared and identified itself as a non-stock, non-profit organization, and not a government instrumentality; that in its petition before the RTC Branch 155, it stated that it “is a non-stock and non-profit organization created under Republic Act 2640...;” and that it offered documentary evidence to support its claim that it is a non-stock and non-profit organization.¹⁸

Petitioners further claim that respondent is a body corporate heavily engaged in the profitable business of leasing a vast portion of its land to commercial entities; that the tax declaration of the subject property does not contain any annotation that it is exempt from payment of RPT; and that respondent falls under the definition of a Government Owned or Controlled Non-Stock Corporation.¹⁹

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¹⁶ The present Petition was filed via registered mail on November 11, 2021, which the Court received on November 23, 2021.

¹⁷ EB Docket, par. 44 of the Petition for Review, pp. 49-52.

¹⁸ EB Docket, pars. 52-55 of the Petition for Review, p. 52.

¹⁹ *Id.*

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Respondent counters that VFP is a public corporation categorized as a government instrumentality; that it is a public corporation created on June 18, 1960, by virtue of RA No. 2640;²⁰ that it exists solely for purposes of a benevolent character; and that its functions are executive functions, designed to implement not just the provisions of RA No. 2640, but also, and more importantly, the Constitutional mandate of the state to provide immediate and adequate care, benefits and other forms of assistance to war veterans and veterans of military campaigns, their surviving spouses and orphans.²¹

Respondent further counters that in addition to government-owned and controlled corporations (GOCCs) and instrumentalities, a third category of government agencies under the jurisdiction of the Office of the Government Corporate Counsel (OGCC) is now recognized -- government instrumentalities vested with corporate powers or government corporate entities. These entities remain *government instrumentalities* because they are not integrated within the department framework and are vested with special functions to carry out a declared policy of the national government. An agency will be classified as a government instrumentality vested with corporate powers when the following elements concur: a) it performs governmental functions; and b) it enjoys operational autonomy. Such is the classification of VFP.

We find merit in respondent's arguments.

As found by the Court in Division, the issue of whether respondent is a GOCC or a government instrumentality has already been resolved in the case of *Veterans Federation of the Philippines v. Angelo T. Reyes, et al. (VFP v. Reyes)*,²² where the Supreme Court declared that VFP is a **public corporation**, viz.:

These arguments of petitioner notwithstanding, we are constrained to rule that petitioner is in fact a **public corporation**. Before responding to petitioner's allegations one by one, here are the more evident reasons why the **VFP is a public corporation**: ...

²⁰ An Act to Create a Public Corporation to be Known as the Veterans Federation of the Philippines, Defining Its Powers, and for Other Purposes.

²¹ EB Docket, pars. 20-22 of the Comment. pp. 201-202.

²² *The Veterans Federation of the Philippines represented by Esmeraldo R. Acorda v. Hon. Angelo T. Reyes*, G. R. No. 155027, February 28, 2006.

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... ..

Petitioner **VFP is a public corporation.** As such, it can be placed under the control and supervision of the Secretary of National Defense, who consequently has the power to conduct an extensive management audit of the petitioner corporation. (*Emphasis supplied*)

Further, RA No. 2640 is entitled “An Act to Create a *Public Corporation* to be known as the Veterans Federation of the Philippines, Defining its Powers, and for Other Purposes.” Thus, any attempt to classify respondent as a government-owned or controlled non-stock corporation²³ would be incomprehensible since no less than the law which created it had designated it as a public corporation, and its statutory functions enshrined in Section 4 of the Act fall within the category of sovereign functions,²⁴ *viz.:*

Section 4. The purposes of the Federation shall be to uphold and defend the democratic way of life as envisioned in the Constitution of the Republic of the Philippines; to represent and to defend the interests of all Filipino veterans; to coordinate the efforts of all different veterans of the Philippines in behalf of the interests of respective members; to promote mutual help among former comrades-in-arms; to perpetuate their common experiences in war; to undertake acts of charity and relief work; to preserve peace and order; to foster love of country and things Filipino and inculcate individual civic consciousness. In general, the Federation shall exist solely for purposes of a benevolent character, and not for pecuniary profit of its members.

In the case of *Boy Scouts of the Philippines v. Commission on Audit (Boy Scout of the Philippines)*,²⁵ the Supreme Court expressly ruled that **public corporations** are treated by law as **agencies or instrumentalities of the government**, to wit:

... Not all corporations, which are not government-owned or controlled, are *ipso facto* to be considered private corporations as there exists another distinct class of corporations or chartered institutions which are otherwise known as “**public corporations.**” These corporations are **treated by law as agencies or instrumentalities of the government which are not subject to the tests of ownership or control and economic viability** but to different criteria relating to their public purposes/interests

²³ *EB* Docket, par. 55 of the Petition for Review, p. 52.

²⁴ *Id.*

²⁵ G.R. No. 177131, June 7, 2011.



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or constitutional policies and objectives and their administrative relationship to the government or any of its Departments or Offices.

... ..

As presently constituted, the BSP still remains an instrumentality of the national government. It is a public corporation created by law for a public purpose, attached to the DECS pursuant to its Charter and the Administrative Code of 1987. It is not a private corporation which is required to be owned or controlled by the government and be economically viable to justify its existence under a special law.

... ..

Since the BSP, under its amended charter, continues to be a public corporation or a government instrumentality, we come to the inevitable conclusion that it is subject to the exercise by the COA of its audit jurisdiction in the manner consistent with the provisions of the BSP Charter. (*Emphasis supplied*)

Like the *Boy Scouts of the Philippines*, respondent remains to be a public corporation or a government instrumentality that is placed under the control and supervision of the Secretary of National Defense.²⁶ Hence, it is outside the purview of local taxation under Section 133 of the LGC, which provides that:

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: ...**

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

Assuming for the sake of argument that respondent is not or ceases to be a government instrumentality, it is still exempt from the payment of RPT as expressly provided under Section 11 of RA No. 2640, the law that created it, which took effect on June 18, 1960, *viz.*:

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²⁶ *The Veterans Federation of the Philippines represented by Esmeraldo R. Acorda v. Hon. Angelo T. Reyes*, G. R. No. 155027, February 28, 2006.

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SEC. 11. The Federation is expressly exempted from **payment of any and all taxes.** (*Emphasis supplied*)

Respondent's tax-exempt status was reiterated and confirmed by RA No. 7291²⁷ on March 24, 1992, after the LGC took effect on January 1, 1992, when it expressly restored the tax and duty incentives of respondent under RA No. 2640,²⁸ to wit:

SEC. 1. Notwithstanding the provisions of Executive Order No. 93 and Presidential Decree No. 1931, **the tax and duty incentives previously enjoyed by the Veterans Federation of the Philippines under Republic Act Numbered Twenty-six hundred and forty are hereby restored:** *Provided, That*

SEC. 2. **All laws, decrees, orders, issuances, rules and regulations, or parts thereof, inconsistent with this Act are hereby repealed or modified accordingly.** (*Emphasis supplied*)

The clear and express wording of RA No. 7291 negates petitioners' assertion that RA No. 7291 is "silent on exemption from real property tax,"²⁹ and it only pertains to respondent's exemption on national internal revenue taxes and customs duties. On the contrary, there is no room for distinction as to the kind of taxes respondent is exempted to pay as none is indicated in the law. The principle that the courts should not distinguish when the law itself does not distinguish squarely applies to this case. Thus, respondent is exempt from *all* taxes of any kind, whether national, local or provincial taxes.

Given the foregoing, the Court in Division did not err in holding that respondent is exempt from the payment of real property tax.

We quote with approval the pertinent ruling of the Court in Division in the assailed Decision, to wit:

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²⁷ An Act Restoring the Tax and Duty Incentives Previously Enjoyed by the Veterans Federation of the Philippines Under Republic Act Numbered Twenty-Six Hundred and Forty, March 24, 1992.

²⁸ *Supra* at note 20.

²⁹ *EB* Docket, paragraphs 61-64 of the Petition for Review, p.54.

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VFP is a government instrumentality and, thus, is exempt from paying RPT.

...

Based on jurisprudence, an entity can only be considered as a GOCC if it satisfies three (3) requisites, to wit:

1. it is organized as a stock or non-stock corporation;
2. it is established for the common good; and
3. it meets the test of economic viability.

Failure to meet all the requisites renders the entity a government instrumentality.

The importance of establishing the type of entity respondent falls under is important in order to determine whether it is exempt from paying RPT or not since **Section 133 (o) of the LGC** exempts government instrumentalities from paying local taxes including RPT. The same privilege is not available to GOCCs. ...

Apropos to the first requisite, **Section 3 of the Revised Corporation Code** defines a stock corporation as those which has 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. Meanwhile, **Section 86 of the Revised Corporation Code** provides that a non-stock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers.

Here, respondent is neither a stock nor non-stock corporation.

As found by the RTC, VFP is not a stock corporation since RA No. 2640 prohibits it from issuing certificates of stocks or declaring and paying dividends, ...

Neither is respondent a non-stock, non-profit corporation since as explained by the Supreme Court in **VFP v. Reyes, et al.**, respondent does not have members *per se* as contemplated under the Corporation Code. ...

As for the second requisite, this Court examined the purpose for which respondent was created as stated in **Section 4 of RA No. 2640** in order to determine whether it complies with the said requisites, ...



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A close reading of the aforementioned provision proves that respondent was created for the common good and welfare of the veterans. As stated in the above-quoted provision, the purposes of respondent are to defend the interest of veterans, to promote mutual help among themselves, to foster love for the Philippines, among others. Hence, it is clear that respondent is compliant with the second requisite.

However, it also fails to meet the third requisite.

...

... [I]t is evident in RA No. 2640 that respondent neither performs economic or commercial activities nor does it compete in the market place. Rather, it performs sovereign functions and essential public service to promote and protect the interests of war veterans and to provide care and assistance to them in line with the mandate of its charter and the social justice provisions of the Constitution. Accordingly, it fails to meet the third requisite which is the test of economic viability.

Hence, since respondent failed to satisfy the first and third requisites, this Court rules that VFA [sic] is not a GOCC but a government instrumentality.

...

Therefore, on the bases of the foregoing, this Court is certain that respondent is a government instrumentality. Therefore, it is exempt from paying RPT.

...

The Veterans Center is owned by the Republic of the Philippines and, as such, is exempted from payment of RPT.

...

In this case, **Proclamation 192** is clear that the Veterans Center is not owned but is only administered by respondent. The ownership of said property remained with the Republic of the Philippines.

The tax declaration presented by petitioners under the name of respondent is not enough to prove that the latter is the owner of the Veterans Center since tax declarations are not conclusive proof of ownership, but only an indicia of

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possession in the concept of owner. Hence, as between the evidence presented by the petitioners and Proclamation 192, this Court gives greater weight to the later.

Even assuming that petitioners are correct in saying that respondent is the owner of the Veterans Center, still the property is exempt from RPT since VFP is a government instrumentality, and as such, all properties registered under its name are considered owned by the Republic of the Philippines. This was the clear import in **Republic of the Philippines v. City of Parañaque**, (*Emphasis supplied*)

The Court in Division did not err in ruling that the RPT is chargeable against the taxable persons who had actual or beneficial use and possession of the property.

The Beneficial Use Doctrine is applicable in favor of respondent.

Respondent admits that the beneficial use of a portion of the Veterans Center, its property was given to various taxable entities by virtue of lease agreements. The *Court En Banc*, therefore, finds that respondent's leased properties shall be taxable pursuant to the "*Beneficial Use Doctrine*"³⁰ under Section 234(a) of the LGC, which exempts from RPT any "[r]eal property owned by the Republic of the Philippines," unless the beneficial use of the property is transferred to a taxable person,³¹ viz.:

SEC. 234. Exemptions from Real Property Tax. — The following are exempted from payment of 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; ...** (*Emphasis supplied*)

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³⁰ *Herarc Realty Corp. v. The Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018; and RA No. 7160, Section 199(b) state: 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.

³¹ 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; ...

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The above provision is invoked by petitioners who insist that it is respondent, and not its lessees, that is liable for the payment of RPT to the City of Taguig.³²

Petitioners' understanding of Section 234(a) is erroneous.

The issue of who between respondent, as property owner, and the lessees of Veterans Center, as the beneficial users, the real property tax liability falls, is not novel and has been the subject of numerous decisions of the Supreme Court.

In *Philippine Heart Center v. The Local Government of Quezon City, et al. (Philippine Heart Center)*,³³ the Supreme Court ruled that it is the "taxable person" with beneficial use who shall be responsible for payment of RPTs due on government properties. Any remedy for the collection of taxes should then be directed against the "taxable person," the same being an action *in personam*.³⁴ Clearly, government instrumentalities 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.³⁵

In the case of *Metropolitan Waterworks and Sewerage System (MWSS) v. Central Board of Assessment Appeals, et al.*,³⁶ the Supreme Court explained that since the MWSS is a government instrumentality with corporate powers, it is not liable to the local government for payment of RPT. The tax exemption that its properties carry ceases when their beneficial use has been extended to a taxable person. The Supreme Court further ruled that "**[t]he liability to pay RPTs on government-owned properties, the beneficial or actual use of which was granted to a taxable entity, devolve on the taxable beneficial user.**" Thus:

It is a fundamental principle in real property taxation that the assessment of real property shall be based on its actual use. 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**

³² EB Docket, paragraphs 77-85, Petition for Review, pp. 64-66.

³³ G.R. No. 225409, March 11, 2020.

³⁴ *Id.* citing *Salva v. Magnile*, G.R. No. 220440, November 8, 2017.

³⁵ *Unimasters Conglomeration Incorporated v. Tacloban City Government, et al.*, G.R. No. 214195, March 23, 2022.

³⁶ G.R. No. 215955, January 13, 2021.

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of the real property at the time the tax accrues. In as early as 1980 in the case of *City of Baguio v. Busuego*, 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. This ruling was made more explicit in the case of *National Power Corp. v. Province of Quezon*:

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.

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 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.** (*Emphasis supplied; citations omitted*)

In the recent case of *Unimasters Conglomeration Incorporated v. Tacloban City Government, et al. (Unimasters)*,³⁷ the Supreme Court reiterated its ruling in *Philippine Heart Center* that “the Republic and its instrumentalities ... retain their exempt status despite leasing out their properties to private individuals.” This exemption comes from its character as a government entity. But the moment beneficial use of the property owned by the

³⁷ G.R. No. 214195, March 23, 2022.

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government instrumentality is granted to a taxable person, the tax exemption is lifted and the liability to pay falls on the beneficial user or possessor.³⁸ Citing the cases of *Philippine Heart Center, MWSS, Estampador v. City of Manila*,³⁹ among others, the Supreme Court retold that:

Here, as correctly pointed out by the CTA *En Banc*, the tax exemption, which the owners of LPHI carry, is withdrawn the moment the beneficial use or possession over the real property was granted to petitioner, a taxable entity. From then on, tax liability accrued and the corresponding duty for the payment of the real property tax devolved on petitioner as the taxable beneficial user and possessor thereof.

Applying the foregoing, respondent, as a government instrumentality, is not a taxable person under Section 133(o) of the LGC. Thus, even if respondent has granted to other taxable entities the beneficial use of a portion of its properties, such fact does not lose the tax-exempt status of respondent. Following the *beneficial use rule* under the LGC, the assessed RPTs are owed by respondent's lessees, being in possession and having actual use of respondent's properties, regardless of ownership.⁴⁰

The Court in Division did not err in affirming the ruling of the RTC declaring as null and void the Warrant of Levy and Notice of Publication and Auction Sale issued against respondent.

In fine, it goes without saying that RA No. 7291 restored the full tax exemption of respondent without any qualification. Undoubtedly, respondent is not liable to pay to the petitioners the RPT on Veterans Center.

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³⁸ *Id.*

³⁹ G.R. No. 227288, March 18, 2021.

⁴⁰ *Provincial Government of Cavite and Provincial Treasurer of Cavite v. CQM Management, Inc.*, G.R. No. 248033, July 15, 2020; *National Power Corporation v. The Province of Pangasinan and the Provincial Assessor of Pangasinan*, G.R. No. 210191, March 4, 2019; *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila*, G.R. No. 186242, December 23, 2009.

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As such, the Court in Division did not err in affirming the RTC's ruling which declared as null and void the Warrant of Levy and Notice of Publication and Auction Sale against respondent.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED**. Accordingly, the Decision dated September 25, 2020, and the Resolution dated March 16, 2021 of the CTA Third Division in CTA AC No. 212, are **AFFIRMED**.

SO ORDERED.



LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice



ERILINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice

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(On Official Business)

CORAZON G. FERRER-FLORES

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.



ROMAN G. DEL ROSARIO

Presiding Justice

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