REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MUNICIPALITY OF LABRADOR, PANGASINAN,
Petitioner,

- versus-

NATIONAL GRID CORPORATION OF THE PHILIPPINES, BANCO DE ORO, METROPOLITAN TRUST AND BANKING CORPORATION, AND LAND BANK OF THE PHILIPPINES,
Respondent.

CTA AC CASE NO. 123

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

Promulgated:

JUN 24 2015

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DECISION

COTANGCO-MANALASTAS, *J.*:

This Petition for Review filed by the Municipality of Labrador, Pangasinan seeks the reversal and setting aside of the Order dated August 11, 2014 of the Regional Trial Court (RTC) of Quezon City Branch 222 that granted an injunction on the seizure and confiscation of money or bank deposit of the National Grid Corporation of the Philippines (NGCP) and further ruled that NGCP is exempt from payment of real property tax pursuant to Republic Act (RA) No. 9511[1].

STATEMENT OF FACTS

The factual antecedents as found by the lower court and as culled from the records of this case are as follows:

[1] An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and For Other Purposes.

Petitioner Municipality of Labrador, Pangasinan is a local government unit created by law, with office at Municipality Hall, Poblacion, Labrador, Pangasinan.[2]

Respondent National Grid Corporation of the Philippines is a domestic corporation with congressional franchise granted by RA No. 9511. Its principal office address is at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.[3]

BDO Unibank, Inc. ("Banco De Oro" for brevity) with principal office at BDO Corporate Center, 7899 Makati Avenue, Makati City; Metropolitan Bank and Trust Co., Inc. ("Metrobank" for brevity) with principal office address at Metrobank Plaza, Sen. Gil J. Puyat Avenue, Makati City; and Land Bank of the Philippines ("Landbank" for brevity) with principal office address at Land Bank Plaza Bldg., 1598 M.H. Del Pilar cor. Dr. J. Quintos Sts., Malate, Manila, collectively referred to as respondent banks are domestic corporations with capacity to sue and be sued.[4]

Under Section 1 of RA No. 9511, respondent NGCP was granted the franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities.[5]

Effective January 15, 2009, respondent NGCP assumed the business of transmitting electricity from the National Transmission Corporation ("TRANSCO" for brevity). From that date, respondent NGCP operated the electricity transmission assets situated in Barangay Bolo-Kadampat, Labrador, Pangasinan.[6]

On April 11, 2011, NGCP received a Notice of Assessment[7] from Romulo Mislang, the Municipal Assessor of Labrador, Pangasinan giving "notice of assessment in conformity with the provisions of the Local Government Code"

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[2] Par. 6, Petition for Review, CTA docket, p. 6.
[3] Par. 7, Petition for Review, CTA docket, p. 6.
[4] Par. 8, Petition for Review, CTA docket, pp. 6-7.
[5] Par. 6, Complaint, RTC docket, vol. 1, p. 2.
[6] Par. 9, Petition for Review, CTA docket, p. 7.
[7] RTC docket, vol. 1, p. 16.

over the transmission assets located in Barangay Bolo-Kadampat, Labrador, Pangasinan ("First Notice of Assessment" for brevity). Attached thereto was Tax Declaration Nos. 13243[8], 13244[9], and 13245[10] under the name of NGCP.[11]

On May 27, 2011, NGCP filed a Petition with the Local Board of Assessment Appeals (LBAA) to assail the First Notice of Assessment on the ground that NGCP is allegedly exempt from payment of all taxes, including real property tax.[12]

On June 21, 2011, the Municipal Treasurer of petitioner issued another document that purported to be a "Notice of Assessment" ("Second Notice of Assessment" for brevity)[13] covering the same transmission assets already covered by the First Notice of Assessment.[14]

It came to the attention of NGCP that on September 15, 2011, the Municipal Treasurer issued a Notice of Delinquency of Payment of Real Estate Tax[15], stating that NGCP is delinquent in the payment of real property taxes as of June 22, 2011 in the sum of ₱16,381,054.00.[16]

On October 10, 2011, NGCP was informed by Banco de Oro, Metrobank, and Landbank that the Municipal Treasurer had served upon respondent banks a Warrant of Distraint/Garnishment dated October 4, 2011. The Warrant of Distraint/Garnishment ordered the seizure and/or confiscation of the money or the bank deposit of NGCP with respondent banks and to deliver the money or bank deposit of NGCP to the office of petitioner's Municipal Treasurer.[17]

Thus, on October 17, 2011, NGCP filed a Complaint[18] with prayer for temporary restraining order (TRO) and/or preliminary injunction before the Regional Trial Court of Quezon City, captioned as "National Grid Corporation of the

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[8] RTC docket, vol. 1, p. 17.
[9] RTC docket, vol. 1, p. 18.
[10] RTC docket, vol. 1, p. 19.
[11] Par. 8, Complaint, RTC docket, vol. 1, p. 3.
[12] Par. 9, Complaint, RTC docket, vol. 1, pp. 3-4.
[13] RTC docket, vol. 1, p. 35.
[14] Par. 13, Complaint, RTC docket, vol. 1, pp. 4-5.
[15] RTC docket, vol. 1, p. 36.
[16] Par. 14, Complaint, RTC docket, vol. 1, pp. 6-7.
[17] Par. 15, Complaint, RTC docket, vol. 1, p. 7.
[18] RTC docket, vol. 1, pp. 1-13.

Philippines (NGCP) vs. Banco De Oro Unibank, Inc., Metropolitan Bank and Trust Company, Landbank of the Philippines, and Municipality of Labrador, Pangasinan, herein represented by Edualino C. Casipit in his official capacity as Municipal Treasurer and Romulo G. Mislang in his official capacity as Municipal Assessor", docketed as Civil Case No. Q-11-70148.

The trial court issued an Order[19] dated October 25, 2011, granting the request for a TRO and further setting the hearing on preliminary injunction of the case. Aggrieved, the Municipality of Labrador, Pangasinan filed a Motion for Reconsideration[20] and Motion for Inhibition of the Honorable Judge Charito B. Gonzales[21] on October 28, 2011, which was denied by the trial court in an Order[22] dated November 4, 2011; thus, the trial for preliminary injunction ensued.

The trial court granted the issuance of the writ of preliminary injunction in favor of NGCP in an Order[23] dated November 15, 2011. The writ of preliminary injunction was issued by the trial court on November 21, 2011.[24]

During the hearing on May 24, 2013[25], the parties agreed that the sole issue to be resolved by the lower court is whether NGCP is liable to pay real property taxes on the properties subject of the First and Second Notices of Assessment.

On February 24, 2014, the trial court issued its Decision[26] denying the Complaint for injunction filed by NGCP, ruling that in interpreting Section 9 of RA No. 9511, NGCP is liable to pay taxes on its real property. The dispositive portion of the Decision states:

> "WHEREFORE, premises considered, the instant complaint for injunction is hereby denied.
>
> SO ORDERED."

[19] RTC docket, vol. 1, pp. 153-161.
[20] RTC docket, vol. 1, pp. 219-223.
[21] RTC docket, vol. 1, pp. 224-227.
[22] RTC docket, vol. 1, p. 229.
[23] RTC docket, vol. 1, pp. 274-282
[24] RTC docket, vol. 1, pp. 358-359.
[25] RTC docket, vol. 2, p. 84.
[26] RTC docket, vol. 2, pp. 233-239.

NGCP then filed a Motion for Reconsideration assailing the Decision issued by the trial court. Subsequently, in an Order[27] dated August 11, 2014, the lower court granted NGCP's Motion for Reconsideration, and ruled that NGCP is not liable to pay real property taxes on properties used in connection with its franchise and made the writ of preliminary injunction permanent. The dispositive portion of the said Order states:

> "WHEREFORE, premises considered, plaintiff's subject motion for reconsideration is hereby partially granted. Accordingly, the Decision dated February 24, 2014 is hereby set aside and a new one is hereby rendered to the effect that the Writ of Preliminary Injunction issued pursuant to the Order dated November 15, 2011 against defendants Banco De Oro Unibank, Inc., Metrobank and Landbank is hereby made permanent.
>
> SO ORDERED."

As a result, petitioner filed the instant Petition for Review on September 15, 2014.

The Court ordered respondents to file their Comment to the Petition for Review via Resolution[28] dated September 24, 2011.

On October 8, 2014, respondent NGCP filed its Comment (Re: Petition for Review dated 13 September 2014)[29]; while respondent Landbank filed its Comment[30] on October 27, 2014. On October 20, 2014, petitioner filed its Reply to the Comment[31]; while respondent NGCP filed its Rejoinder (Re: Reply dated 14 October 2014)[32] on November 10, 2014.

In a Resolution[33] dated October 14, 2014, this Court ordered the parties to file their respective memoranda.

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[27] RTC docket, vol. 2, pp. 304-305.
[28] CTA docket, p. 192.
[29] CTA docket, pp. 193-222.
[30] CTA docket, pp. 253-257.
[31] CTA docket, pp. 227-233.
[32] CTA docket, pp. 276-293.
[33] CTA docket, p. 224.

Respondent NGCP filed its Memorandum[34] on November 13, 2014; while the Memorandum for Landbank[35] and the Memorandum for Banco De Oro[36] were both filed on November 17, 2014, and the Memorandum for Metrobank[37] was filed on November 26, 2014. Finally, petitioner filed its Memorandum[38] on December 1, 2014. The Court thus issued a Resolution[39] on December 16, 2014 declaring the case submitted for decision.

STATEMENT OF ISSUES

With respect to respondent banks, the only issue to be resolved is whether they can be considered as real party in interest and should be made as parties to the instant case.

As regards petitioner and respondent NGCP, perusal of the records of the case reveals that the issues to be resolved are as follows:

1. Whether or not the Court of Tax Appeals has jurisdiction over real property tax cases decided by the Regional Trial Court; and

2. Whether or not NGCP is liable for payment of real property tax on properties used in connection with its franchise.

RULING OF THE COURT

Respondent banks may not be considered as real party in interest in the instant case

Section 2 of Rule 3 of the Rules of Court states:

> "SEC. 2. *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by

[34] CTA docket, pp. 294-328.
[35] CTA docket, pp. 332-336.
[36] CTA docket, pp. 338-349.
[37] CTA docket, pp. 350-360.
[38] CTA docket, pp. 404-409.
[39] CTA docket, p. 410.

> the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest."

Interest within the meaning of the Rules of Court means material interest or an interest in issue and to be affected by the decree or judgment of the case, as distinguished from mere interest in the question involved.[40] One having no right or material interest to protect cannot invoke the jurisdiction of the court as a party-plaintiff in an action.[41]

Therefore, respondent banks may not be considered as real party in interest in the instant case since they will not be benefitted or injured by the judgment in this case.

Jurisdiction of the Court of Tax Appeals over real property tax cases decided by the Regional Trial Court

Petitioner argues that all matters involving the propriety or legality of the assessment and collection of real property taxes are within the exclusive and special appellate jurisdiction of the Court of Tax Appeals (CTA) to the exclusion of the Regional Trial Court pursuant to Section 7(a)(3) and (5) of RA No. 9282, to wit:

> "SEC. 7. Jurisdiction. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx xxx xxx
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
>
> xxx xxx xxx

[40] *Abella, Jr. vs. Civil Service Commission*, G.R. No. 152574, November 17, 2004; *Mathay vs. Court of Appeals, et al.*, G.R. No. 124374, December 15, 1999; *Rebollido, et al. vs. Hon. Court of Appeals, et al.*, G.R. No. 81123, February 28, 1989.

[41] *Abella, Jr. vs. Civil Service Commission, ibid.*

> (5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;" (Emphasis supplied)

Petitioner further argues that the term "local tax case" means, in the ordinary sense, a case involving a tax imposed by local government units as compared to internal revenue taxes or customs duties imposed by the national legislative body.[42]

In contrast, respondent NGCP avers that under Section 7(a)(3) of RA No. 9282, the appellate jurisdiction of the CTA refers to decisions of RTCs over local tax cases only and not to real property taxes.[43]

Respondent NGCP further argues that under Section 199 of RA No. 7160, otherwise known as the Local Government Code of 1991, a real property tax is actually an "ad valorem tax", defined as a "levy on real property determined on the basis of a fixed proportion of the value of the property".[44]

Respondent NGCP points out that there are different Titles for local tax and real property tax under Book II of RA No. 7160, hence, both taxes should be treated separately. Moreover, petitioner has no power to impose real property tax pursuant to Section 133 of RA No. 7160.[45]

According to respondent NGCP, considering that a real property tax is not a local tax, petitioner cannot rely on Section 7(a)(3) of RA No. 9282 as basis of this Court's jurisdiction over the present case, since the said provision covers local tax cases only, excluding real property tax cases.[46]

Finally, respondent NGCP argues that as stated in Section 7(a)(5) of RA No. 9282, the CTA can only exercise appellate jurisdiction over decisions of the Central Board of Assessment Appeals (CBAA) over cases involving the

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[42] Petitioner's Memorandum, CTA docket, p. 407.
[43] Par. 35, respondent NGCP's Memorandum, CTA docket, p. 300.
[44] Par. 36, respondent NGCP's Memorandum, CTA docket, pp. 300-301.
[45] Pars. 37 to 37.3, respondent NGCP's Memorandum, CTA docket, pp. 301-302.
[46] Par. 39, respondent NGCP's Memorandum, CTA docket, p. 302.

assessment and taxation of real property originally decided by the provincial or city board of assessment appeals. In the instant case, the subject of petition is not a decision of CBAA but a decision rendered by the RTC. Taking also in consideration the fact that petitioner admitted that there is still a pending case before the LBAA of Lingayen, Pangasinan, therefore, the CTA has no jurisdiction over the instant case.[47]

Section 7(a) of RA No. 9282 enumerates the CTA's exclusive appellate jurisdiction, including its jurisdiction over decisions, orders or resolutions of the RTC in local tax cases, to wit:

> "SEC. 7. Jurisdiction. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial;
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
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> (4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees, or other monetary charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

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[47] Pars. 39 to 42, respondent NGCP's Memorandum, CTA docket, p. 302.

> (5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
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> (6) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;
>
> (7) Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties." (Emphasis supplied)

Based on the foregoing, this Court has jurisdiction over decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction. The only question is whether the term "local tax cases" includes real property tax cases.

The Supreme Court in the recent case of *National Power Corporation vs. Municipal Government of Navotas, Sangguniang Bayan of Navotas and Manuel T. Enriquez, in his capacity as Municipal Treasurer of Navotas*[48] resolved the issue in this wise:

> "Indeed, **the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes.** This is evident from a perusal of the Local Government Code (LGC) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.

[48] G.R. No. 192300, November 24, 2014.

xxx xxx xxx

xxx The fact that a separate chapter is devoted to the treatment of real property taxes, and a distinct appeal procedure is provided therefor does not justify an inference that Section 7(a)(3) of R.A. 9282 pertains only to local taxes other than real property taxes. Rather, the term 'local taxes' in the aforementioned provision should be considered in its general and comprehensive sense, which embraces real property tax assessments, in line with the precept *Generalia verba sunt generaliter inteligencia* – what is generally spoken shall be generally understood. Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used. In the words of the Court in *Marcos v. Chief of Staff*:

> Where words are used which have both, a restricted and a general meaning, the general must prevail over the restricted unless the nature of the subject matter of the context clearly indicates that the limited sense is intended.

Here, the context in which the word 'local taxes' is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.

Based on the foregoing, the general meaning of 'local taxes' should be adopted in relation to Paragraph (a)(3) of Section 7 of R.A. 9282, which necessarily includes real property taxes." *(Emphasis supplied)*

In the same case, the Supreme Court also ruled that in real property tax cases, an appeal to the Board of Assessment Appeals is not necessary before a party may file a Petition for Review before the CTA. The pertinent portions of the Decision provide:

"xxx when the legality or validity of the assessment is in question, and not its reasonableness or correctness, appeals to the LBAA, and subsequently to the CBAA, pursuant to Sections 226 and 229 of the LGC, are not necessary.

Stated differently, in the event that the taxpayer questions the authority and power of the assessor to impose the assessment and of the treasurer to collect the real property tax, resort to judicial action may prosper. This is in consonance with the ruling in *Ty v. Trampe*. Here, a petition for prohibition with prayer for a restraining order and/or writ of preliminary injunction was filed to declare null and void the new tax assessments and enjoin the collection of real estate taxes based on said assessments. Despite the alleged non-exhaustion of administrative remedies and non-payment of the real property tax, the Court gave due course to the case on the ground that the controversy did not involve questions of fact but only of law. Thus:

> Respondents argue that this case is premature because petitioners neither appealed the questioned assessments on their properties to the Board of Assessment Appeal, pursuant to Sec. 226, nor paid the taxes under protest, per Sec. 252.
>
> We do not agree. ***Although as a rule, administrative remedies must first be exhausted before resort to judicial action can prosper, there is a well-settled exception in cases where the controversy does not involve questions of fact but only of law.*** In the present case, the parties, even during the proceedings in the lower court on 11 April 1994, already agreed 'that the issues in the petition are legal', and thus, no evidence was presented in said court.
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> In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Sec. 229 (b) that '(t)he proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts ... .' ***It follows that appeals to this Board may be fruitful only where questions of fact are involved. Again, the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed.*** Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to 'first pay the tax' under protest. Otherwise, the city or municipal treasurer will not act on his protest. ***In the case at bench, however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect***

> ***the tax. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase.'***
>
> Accordingly, if the only issue is the legality or validity of the assessment – a question of law – direct recourse to the RTC is warranted."

In the instant case, the issue raised by petitioner and respondent NGCP is whether the latter is liable to pay real property taxes considering that it is allegedly exempt from payment of such tax pursuant to its franchise.

In a way, respondent NGCP is questioning the legality of the assessments made by petitioner. Applying the rule laid down by the Supreme Court in the case mentioned above, respondent NGCP may directly file its complaint before the Regional Trial Court without waiting for the decision of the LBAA. Hence, this Court has jurisdiction over the instant Petition for Review.

NGCP is not exempted from paying real property tax

Petitioner contends that respondent NGCP is liable to pay real property tax pursuant to Section 9 of RA No. 9511, citing the case of *Digital Telecommunications Philippines, Inc. vs. City Government of Batangas, et al.*[49], wherein the Supreme Court ruled that Digitel's real properties, whether or not used in its telecommunications business, are subject to real property tax. The phrase "exclusive of this franchise" qualifies the term "personal property." This means that its legislative franchise, which is an intangible personal property, shall not be subject to taxes.[50] This is to put franchise grantees in parity with non-franchisees. There is nothing in its franchise which expressly or even impliedly exempts Digitel from real property tax.

Respondent NGCP counters that its exemption from real property tax on properties used in connection with its

[49] G.R. No. 156040, December, 11, 2008.
[50] Petition for Review, CTA docket, pp. 9-14.

franchise is anchored in Section 9 of RA No. 9511,[51] which categorically provides:

> "Section 9. *Tax Provisions.* – In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns, shall pay a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise. Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted: *Provided*, That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: *Provided, further*, That payment by Grantee of the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAT)."

According to respondent NGCP, the proviso "in lieu of all taxes" expressly exempts respondent NGCP from payment of taxes, duties, and charges on properties used by it in connection with its franchise. Herein petitioner even admitted in its Notice of Delinquency that the properties subject of the First and Second Notices of Assessments and of the Warrants of Distraint/Garnishment are properties used in the conduct of NGCP's business.[52]

Respondent NGCP further contends that before NGCP assumed the transmission functions from TRANSCO, TRANSCO was exempted from paying real property taxes on properties actually used in the transmission of electricity. Therefore, NGCP should also be exempted from payment of real property taxes on properties used in the conduct of its business.[53]

Respondent NGCP's arguments are bereft of merit. The second portion of the same provision expressly provides that

[51] Par. 74, respondent NGCP's Memorandum, CTA docket, p. 313.
[52] Pars. 77-80, respondent NGCP's Memorandum, CTA docket, pp. 315-316.
[53] Pars. 83-87, respondent NGCP's Memorandum, CTA docket, pp. 316-319.

respondent NGCP is not exempted from payment of real estate taxes.

Section 9 of RA No. 9511 states that respondent NGCP is liable for a franchise tax equivalent to three percent (3%) of its gross receipts derived from its operation; the same is in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise.

However, a close reading of the next portion of the same provision of law expressly indicates that respondent NGCP "shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay."

Therefore, even if the first portion of the provision includes the phrase "in lieu of all taxes" in favor of respondent NGCP, the second portion provides an exception to the same by expressly stating that respondent NGCP shall be liable to pay taxes on its real estate, buildings and personal property, as other corporations are now or hereby may be required by law to pay. Evidently, respondent NGCP is liable to pay taxes on its real estate, buildings and personal property.

Moreover, respondent NGCP's allegation that it is exempted from payment of real property tax since TRANSCO was exempted from payment of the said tax holds no water.

It should be noted that TRANSCO assumed the electrical power transmission function of NPC by virtue of RA No. 9136[54], thus, all assets owned by NPC relative thereto, including its franchise for the operation of the transmission and grid, were accordingly transferred to TRANSCO. Meanwhile, the power transmission operation of TRANSCO was subsequently privatized and formally turned over to respondent NGCP on January 15, 2009 by virtue of RA No. 9511.

[54] An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes.

However, NPC's exemption from real property tax, embodied in its charter[55] which took effect in 1971 was withdrawn upon the effectivity of the Local Government Code (LGC) of 1991. The pertinent provisions of the Local Government Code are as follows:

> "SEC. 193. Withdrawal of Tax Exemption Privileges. Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or -controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.
>
> xxx xxx xxx
>
> SEC. 232. Power to Levy Real Property Tax. A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.
>
> xxx xxx xxx
>
> SEC. 234. Exemption 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, nonprofit 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

[55] Republic Act No. 6395.

> 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.
>
> 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."

By virtue of Section 193 of the LGC, all tax exemption privileges then enjoyed by all persons, save those expressly mentioned in other provisions, have been withdrawn effective January 1, 1992 – the date of effectivity of the LGC.

Evidently, based on the above-mentioned provisions, respondent NGCP cannot claim tax exemption under the "in lieu of all taxes" clause considering that its predecessors were not likewise exempt from the subject tax.

Moreover, respondent NGCP is not among those mentioned under Section 234 of the LGC, which are expressly exempted from payment of real property taxes. It is a basic precept of statutory construction that the express mention of one person, thing, act, or consequence excludes all others as expressed in the familiar maxim *expressio unius est exclusio alterius*.[56] It is therefore incumbent upon respondent NGCP to point to some provisions of law that expressly grant it exemption from real property taxes.

Indeed, taxation is the rule and exemption is the exception. The burden of proof rests upon the party claiming exemption to prove that it is, in fact, covered by the exemption so claimed.[57] Tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken. They cannot be extended by mere

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[56] *Sario Malinias vs. The Commission on Elections, et al.*, G.R. No. 146943, October 4, 2002.
[57] *Cyanamid Philippines, Inc. vs. Court of Appeals,* 379 Phil. 689 (2000).

implication or inference.[58] In this case, respondent NGCP relies solely on the alleged exemption pursuant to its franchise.

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the Order dated August 11, 2014 is hereby **REVERSED AND SET ASIDE**.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest 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's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

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[58] *Philippine Long Distance Telephone Company, Inc. vs. City of Davao, et al.*, G.R. No. 143867, March 25, 2003.