REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

BAHAY BONDS 2 SPECIAL PURPOSE TRUST, administered by Land Bank of the Philippines Through its Trust Banking Group,
Respondent.

CTA EB NO. 2142
(CTA Case No. 9444)

Present:

Del Rosario, PJ,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro, and
Reyes-Fajardo, JJ.

Promulgated:

NOV 2 4 2021 3:41p.m.

x---x

RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration (Re: Decision promulgated 7 December 2020) filed on December 16, 2020, sans respondent's comment.

For easy reference, the dispositive portion of the assailed Decision reads as follows:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit.

SO ORDERED."[1]

In the instant motion, petitioner insists that the subject Asset Backed Securities are deemed deposit substitutes under Section 22(Y) of the 1997 National Internal Revenue Code (NIRC), as amended, and under BIR Ruling No. 516-2012. As such, it is subject to a final tax at the rate of twenty percent (20%) under Section 27(D)(1) of the 1997 NIRC, as amended.

However, this issue has been squarely addressed in the assailed Decision, as follows:

> "With respect to the issue raised by petitioner as to the Bahay Bonds being deposit substitutes, the Supreme Court had already clarified this matter in *Commissioner of Internal Revenue v. Bahay Bonds 2 Special Purpose Trust, administered by the Land Bank of the Philippines through its Trust Banking Group*, as cited by the Court in Division in the assailed Resolution. Thus:
>
>> 'As to the finding that the Bahay Bonds are not deposit substitutes, the CTA *EB* was also correct in applying Sections 30 and 31 of Republic Act No. (RA) 9267, otherwise known as 'The Securitization Act of 2004.' It is axiomatic that a later law prevails over a prior statute. By expressly providing that Asset-Backed Securities (ABS), such as the Bahay Bonds, are not to be considered as deposit substitutes under RA 8424, otherwise known as the 'Tax Reform Act of 1997'or the 'National Internal Revenue Code of 1997,' Congress clearly intended to create an exception to the general rule. Considering that Section 33 of RA 9267 also expressly provides for income tax exemption for the income or yield from low-cost or socialized housing-related ABS, which, according to the findings of both the CTA First Division and the CTA EB, include the Bahay Bonds, there was no error in granting the refund xxx.'"[2]

Again, as previously pronounced in the above-cited case, Sections 30, 31 and 33 of RA 9267 clearly intended to exempt from income taxation the yields from low-cost or socialized housing-related ABS. Thus, the Court *En Banc* finds the instant motion unmeritorious. gr

---

[1] Decision, Court *En Banc* Docket, p. 68.
[2] Please see Note 1, pp. 67-68.

WHEREFORE, the instant Motion for Reconsideration (Re: Decision promulgated 7 December 2020) is **DENIED**, for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA 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
MARIAN IVY F. REYES-FAJARDO
Associate Justice