Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

__En Banc__

ATTY. RACIMO R. ESTAMPADOR, Petitioner,

-versus-

THE CITY ASSESSOR OF MANILA, Respondent.

CTA EB No. 1109
(CBAA Case No. L-123)

Present:
DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, *JJ.*

Promulgated:
NOV 05 2015
2:58 p.m.

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DECISION

CASANOVA, J.:

This is an appeal, by way of Petition for Review,[1] filed by petitioner Atty. Racimo R. Estampador, on December 20, 2013, assailing the Decision[2] dated August 15, 2013 and the Resolution[3] dated November 13, 2013, both promulgated by the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-123, entitled *"Atty. Racimo R. Estampador vs. Local Board of Assessment Appeals of the City of Manila and the City Assessor of Manila"*, the dispositive portions of which respectively read:

<u>Decision dated August 15, 2013:</u>

"**WHEREFORE**, premises considered, the instant Appeal is hereby DISMISSED for lack of merit.

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[1] CTA En Banc Rollo, pp. 1-11.
[2] Annex "H" to the Petition for Review, Ibid, pp. 216-222.
[3] Annex "J" to the Petition for Review, Id., pp. 231-235.

SO ORDERED."

Resolution dated November 13, 2013:

"**WHEREFORE**, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner Atty. Racimo R. Estampador, is of legal age, Filipino citizen, and with office address at Room 514, BPI Bldg., Plaza Lacson, Escolta St., Sta. Cruz, Manila.[4]

Respondent City Assessor of Manila is the officer of the City of Manila charged with assessing real property tax on real properties within the territorial jurisdiction of the city. The City Assessor of Manila may be served with summons and legal processes through her counsel, Atty. Ma. Perlita C. Pinza-Cabrera, at Room 326, Manila City Hall, Arroceros St., Manila.

THE FACTS

On June 25, 1974, petitioner entered into a contract of lease with the Bureau of Building and Real Property Management, Department of General Services.[5] He leased a parcel of land with an area of 4,778.87 square meters (sq/m), more or less, which was later on increased to 10,649.87 sq/m[6] at Chicago St., corners 6th and 7th Streets, Port Area, Manila, for a period of twenty-five years (25) years.[7]

On December 23, 1975, the Philippine Ports Authority, pursuant to Presidential Decree No. 857[8], assumed some of the functions of the defunct Bureau of Building and Real Property Management, Department

[4] Verification and Certificate Against Forum Shopping, Petition, En Banc Rollo, p. 10.
[5] Par. 1, Statement of the Case, Petition for Review, Id., p. 1.
[6] As stated in par. 3 of Julius Rae A. Estampador's Affidavit, CBAA Case No. L-123 (Folder 1), p. 183.
[7] Contract of Lease, Annex "A" to the Petition for Review, Id., p. 12.
[8] PROVIDING FOR THE REORGANIZATION OF PORT ADMINISTRATION AND OPERATION FUNCTIONS IN THE PHILIPPINES, REVISING PRESIDENTIAL DECREE NO. 505 DATED JULY 11, 1974, CREATING THE PHILIPPINE PORT AUTHORITY, BY SUBSTITUTION, AND FOR OTHER PURPOSES.

of General Services, specifically, on all matters "concerning port facilities, ports operations, or port works".[9]

Thereafter, upon enactment of Executive Order (E.O.) No. 321[10] on March 17, 1988, the territorial area of the South Harbor, Port of Manila, was expanded and placed under the jurisdiction of the Philippine Ports Authority (PPA). Part of the said expansion includes the property being leased by petitioner, which is the subject matter of the present controversy.[11] Section 3 of E.O. No. 321, likewise, transferred to PPA all records and documents covering all existing leases, leasehold rights and contracts on the areas within the expanded Port Zone.

Thus, petitioner started paying his lease rentals to PPA as shown in the following:

a. In a letter[12] dated January 4, 1994, petitioner informed the Philippine Ports Authority, specifically, its Collection Officer at South Harbor District, that he paid the amount of P13,512.00 in compliance with the letter dated June 16, 1987.

b. Petitioner sent another letter[13] dated February 4, 1994 to PPA, enclosing therein the Manager's Check No. 044800 dated February 2, 1994 in the amount of P13,512.00 and Manager's Check No. 044829 in the amount of P135,120.00 dated February 4, 1994, as part of his lease rental for year 1994.

c. In a letter[14] dated January 4, 1995 addressed to PPA, petitioner enclosed therein Prudential Bank Manager's Check No. 047069 dated January 5, 1995 in the amount of P162,144.00, as full payment for the year 1995.

On November 27, 1995, the Port Manager of the PPA, Jalilul H. Salialam, sent a notice of adjustment[15] in the monthly rental of petitioner.

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[9] Section 40 of PD No. 857:
"Section 40. Other Laws. Any and all other powers and rights, duties and functions and jurisdiction vested in and all properties and appropriations of any government agency, authority or instrumentality pertaining to every matter concerning port facilities, ports operations, or port works shall be transferred to and be vested in the Authority."
[10] EXPANDING THE TERRITORIAL AREA OF THE SOUTH HARBOR PORT ZONE OF THE PORT OF MANILA UNDER THE JURISDICTION OF THE PHILIPPINE PORTS AUTHORITY.
[11] Pars. 1 to 3, Statement of Facts, Petition for Review, Id., p. 2.
[12] CBAA Case No. L-123 (Folder 1), p. 73.
[13] CBAA Case No. L-123 (Folder 1), pp. 74-76.
[14] CBAA Case No. L-123 (Folder 1), pp. 70-71.
[15] CBAA Case No. L-123 (Folder 1), pp. 66-67.

Then, on January 7, 1996, petitioner received[16] from the Office of the City Assessor of Manila a copy of the Notice of Assessment of Real Property dated December 29, 1995 for the subject parcel of land used for commercial purposes.

On January 31, 1996[17], petitioner contested said assessment in his Request for Exemption and Dropping of Lot/Land Area from Taxable Properties covered by Notice of Assessment of Real Property dated December 29, 1995[18], addressed to Lourdes G. Laderas, City Assessor of Manila.

On February 23, 1996, petitioner appealed[19] before the LBAA the assessment made by the City Assessor under Notice of Assessment No. 96-00009, which appeal was docketed by the LBAA as LBAA Case No. 96-3704.

In a Memorandum for the Appellant[20] dated March 11, 1996, petitioner insisted that he is exempt from the payment of real property taxes based not only on his "existing lease contract with the government agency, but on the theory that 'no law impairing the obligation of contracts shall be impaired' as ordained in the new Constitution of the Philippines, and finally the existing charter of PPA expressly granting the same from payment of real property taxes being a government agency of the Republic of the Philippines."(sic)

On March 15, 1996, petitioner filed with the LBAA his Supplemental Motion[21] and Motion to Admit Documentary Evidence as Proof of Exemption[22] dated March 11, 1996, praying that he should be exempt from payment of realty taxes and his name be dropped from the assessment roll.

In response, the City Assessor of Manila filed a Comment/Manifestation[23] on March 18, 1996, arguing that the only law that should be applied in the instant appeal is Sec. 205(d) of the Local Government Code of 1991, which explicitly provides that "(r)eal properties owned by the Republic of the Philippines, its

[16] As stated in petitioner's letter dated January 26, 1996, CBAA Case No. L-123 (Folder 1), p. 13.
[17] Par. 4, Statement of Facts, Petition for Review, En Banc Rollo, p. 3.
[18] CBAA Case No. L-123 (Folder 1), pp. 13-17.
[19] LBAA Case No. 96-3704 (Folder 3), p. 105.
[20] LBAA Case No. 96-3704 (Folder 3), pp. 111-115.
[21] LBAA Case No. 96-3704 (Folder 3), pp.107-108.
[22] LBAA Case No. 96-3704 (Folder 3), pp. 109-110
[23] LBAA Case No. 96-3704 (Folder 3), p. 106.

instrumentalities and political subdivisions, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee or of public entity if such property has been acquired or held for resale or lease."

On March 19, 1996, petitioner filed an Urgent Motion to Submit the Appealed Case for Decision/ Resolution[24] with the LBAA.

Thereafter, on January 17, 1997, petitioner received two (2) Notices of Adjusted Assessment of Real Property from the Office of the City Assessor for commercial land[25] and improvement[26].

Thus, petitioner wrote an Urgent Motion/Manifestation[27] with the LBAA on January 29, 1997, praying that the new notices of assessment be consolidated with the pending appeal.

Subsequently, petitioner began paying under protest the tax assessments issued against him as shown in the following:

Date of Filing of Letter of Protest	**Prudential Bank Manager's Check Number**	**Amount of Payment**
February 28, 1997[28]	051702	P623, 278.08
March 14, 1997[29]	051799	P109,560.60
June 10, 1997[30]	052283	P109,560.60
December 11, 1997[31]	053465	P109,560.60
March 17, 1998[32]	054011	P109,560.60
June 26, 1998[33]	054517	P109,560.60
December 22, 1998[34]	059049	P109,560.60

[24] CBAA Case No. L-123 (Folder 1), p. 23.
[25] CBAA Case No. L-123 (Folder 1), p. 108.
[26] CBAA Case No. L-123 (Folder 1), p. 109.
[27] CBAA Case No. L-123 (Folder 1), p. 107.
[28] Par. 10, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217; CBAA Case No. L-123 (Folder 1), p. 110.
[29] Par. 11, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217; CBAA Case No. L-123 (Folder 1), p. 112.
[30] Par. 12, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217.; CBAA Case No. L-123 (Folder 1), p. 114.
[31] Par. 13, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217; CBAA Case No. L-123 (Folder 1), p. 118.
[32] Par. 13, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217; CBAA Case No. L-123 (Folder 1), p. 120.
[33] Par. 15, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 217; CBAA Case No. L-123 (Folder 1), p. 122.
[34] Par. 16, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p.125.

March 17, 1999[35]	059360	P109,560.60
June 23, 1999[36]	089741	P109,560.60
September 29, 1999[37]	060162	P109,560.60
December 6, 1999[38]	060420	P109,560.60
March 23, 2000[39]	060871	P109,560.60
June 27, 2000[40]	061278	P109,560.60
September 26, 2000[41]	061632	P109,560.60

On July 2, 2000, petitioner received a letter dated June 29, 2000 from the City Treasurer's Office, informing him that the words "PAID UNDER PROTEST" had already been annotated on the Official Receipts for the June 27, 2000 realty tax payments.[42]

On December 13, 2001, petitioner received a copy of the LBAA's Order[43] dated October 4, 2001 dismissing his appeal, to wit:

> "For failure to pursue appeal filed in March 1, 1996, for an unreasonable length of time, and to show cause why this appeal should be heard the same is hereby dismissed without prejudice.
>
> SO ORDERED."

Undaunted, petitioner filed with the LBAA a Motion for Reconsideration from the Board's Order dated October 4, 2001[44] on December 21, 2001, arguing that he has never been remise or negligent in following up the development of his case as shown in his several letters[45] sent to LBAA. Thus, he prayed that the said Order be reconsidered and set aside and a Decision/Resolution be issued

[35] Par. 17, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 127.
[36] Par. 18, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 129.
[37] Par. 19, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 131.
[38] Par. 20, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 133.
[39] Par. 21, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 135.
[40] Par. 22, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 137.
[41] Par. 24, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218.
[42] Par. 23, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 218; CBAA Case No. L-123 (Folder 1), p. 149.
[43] CBAA Case No. L-123 (Folder 1), p. 105.
[44] CBAA Case No. L-123 (Folder 1), pp. 100-104.
[45] March 19, 1996 and January 29, 1997 letters.

exempting him from paying the real property tax on the said land owned by the government.

On March 28, 2008, petitioner sent a letter[46] addressed to Atty. Marissa Endaya-Timones, Chairman of the LBAA and Registrar, Register of Deeds, III, LRA, City of Manila, appealing that extra effort/diligence be given to his pending case.

On April 27, 2009, the LBAA received a letter[47] from petitioner dated April 27, 2009 reiterating his request for the LBAA to act on his appeal which has been pending since 1996.

Petitioner, again, sent another letter[48] to LBAA on December 28, 2009, reiterating his request for the latter to act on his appeal.

The foregoing demand was reiterated by petitioner in his letter filed with the LBAA on January 5, 2011.[49]

On November 28, 2011, the LBAA issued a Resolution[50] denying petitioner's appeal, which was received by petitioner on September 2, 2013.[51]

Hence, petitioner was prompted to elevate[52] the instant case to the Central Board of Assessment Appeals (CBAA) on February 16, 2012, praying that the LBAA's Resolution dated November 28, 2011 be annulled/reversed and a decision/resolution be issued exempting petitioner from paying real property tax on the said land owned by the Republic of the Philippines, and that the P2,266,686.68 already paid for the real property taxes of the said land be refunded.

However, petitioner's Appeal was dismissed by the CBAA for lack of merit in its Decision[53] promulgated on August 15, 2013.

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[46] CBAA Case No. L-123 (Folder 1), p. 154.
[47] CBAA Case No. L-123 (Folder 1), pp. 18-20.
[48] CBAA Case No. L-123 (Folder 1), p. 142.
[49] Par. 30, Antecedents, CBAA Decision dated August 15, 2013, En Banc Rollo, p. 219
[50] CBAA Case No. L-123 (Folder 1), pp. 4-8.
[51] Par. 4, Concise Statement of the Matters involved and statement of the Material Dates Showing Timeliness of Petition, Petition, En Banc Rollo, p. 3.
[52] Annex "G" to the Petition for Review, En Banc Rollo, pp. 95-112.
[53] CBAA Decision, Annex "H" to the Petition for Review, Id., pp. 216-222.

Aggrieved, petitioner filed a Motion for Reconsideration from the Central Board of Assessment Appeals' Decision of August 15, 2013[54], which was denied by the CBAA in its Resolution[55] dated November 13, 2013.

Consequently, petitioner filed a Petition for Review with the Court of Tax Appeals *En Banc* on December 20, 2013, sans respondent's Comment per Records Verification[56] dated July 3, 2014.

Thereafter, the case was submitted for decision on November 13, 2014, after taking into consideration the Memorandum for City Assessor of Manila,[57] filed on September 5, 2014 and petitioner's Memorandum,[58] filed on October 27, 2014.

Hence, this Decision.

Here, petitioner raised the following assignment of errors for the consideration of this Court:

1. The Central Board of Assessment Appeals erred in holding that the respondent City Assessor of Manila, as a functionary of the City of Manila, is not bound by the provision in the lease contract executed by the Republic of the Philippines in favor of petitioner that exempts the latter from all taxes levied and to be levied on the leased premises; and,

2. The CBAA erred in disregarding and in not applying the case of *City of Pasig, et al. vs. Republic of the Philippines, etc al.,*[59] which holds that when the beneficial use of property of public dominion has been granted to a taxable person, the Republic of the Philippines is liable for the real estate tax thereon and not the person who has the beneficial use of the same.

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[54] Annex "I" to the Petition for Review, Id., pp. 225-230.
[55] Annex "J" to the Petition for Review, Id., pp. 231-235.
[56] Id., p. 255.
[57] Id., pp. 259-262.
[58] Id., pp. 263-279.
[59] G.R. No. 185023, August 24, 2011.

THE RULING OF THE COURT

Before resolving the instant case on the merits, we deem it proper to discuss the procedural error committed by the Local Board of Assessment Appeals and Central Board of Assessment Appeals in resolving the instant case.

The instant case should not have been resolved by the LBAA and CBAA, without the PPA, having first been impleaded.

To recall, petitioner insists that the real property assessments for the leased lot should be in the name of the Republic of the Philippines, specifically, the Philippine Ports Authority (lessor), which has been given by law the authority to administer and manage the same, and not on the lessee (petitioner herein) who has the beneficial use thereof, on account of the contractual stipulation in the lease contract exempting the lessee from payment of realty taxes on leased premises.

However, the Court observed that from the inception of the case, the Philippine Ports Authority was not impleaded as party in this case, despite the fact that it owns the subject leased premises and it stands to be adversely affected if the instant Petition for Review will be granted. Further, it is only the PPA who can affirm or deny the factual allegations of petitioner in the subject Petition. As such, there is no doubt that PPA is an indispensable party to this case.

Section 7, Rule 3 of the Rules of Court[60] defines indispensable parties as parties in interest without whom no final determination can be had of an action. An indispensable party is one who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest.[61] The presence of indispensable parties is necessary to vest the court with jurisdiction, which is the authority to hear and determine a cause, the right to act in a case, thus, without the presence of indispensable parties to a suit or proceeding, judgment of a court cannot attain real finality.[62]

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[60] "Rule 3
PARTIES TO CIVIL ACTIONS
SEC. 7. Compulsory joinder of indispensable parties.— Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

[61] Fort Bonifacio Development Corporation v. Hon. Edwin D. Sorongon, et al., G.R. No. 176709, May 8, 2009.

[62] Lotte Phil. Co. Inc., vs. Erlinda Dela Cruz, et al., G.R. No. 166302, July 28, 2005.

In light of the foregoing, no final ruling can be had on this case. PPA's inclusion as one of the parties herein is necessary for the effective and complete resolution of the case and in order to accord all parties the benefit of due process and fair play.

Also, the Court sees no reason to discuss the other issues raised by petitioner as the resolution of the same would depend on the complete evidence in this case. This will not, however, be possible until all the indispensable parties are impleaded and heard on their evidence.

Thus, a remand of the case to the Local Board of Assessment Appeals is imperative.

WHEREFORE, premises considered, the October 4, 2001 Order and November 28, 2011 Resolution of the Local Board of Assessment Appeals in LBAA Case No. 96-3704, and the August 15, 2013 Decision and November 13, 2013 Resolution of the Central Board of Assessment Appeals in CBAA Case No. L-123, are **SET ASIDE**. Let the case be **REMANDED** to the Local Board of Assessment Appeals to include the Philippine Ports Authority as an indispensable party and, afterwards, to hear the case **STRICTLY** in the manner prescribed by the rules.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(With Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen S L
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *en banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

ATTY. RACIMO R. ESTAMPADOR, *Petitioner,*	**CTA EB NO. 1109** (CBAA Case No. L-123)
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THE CITY ASSESSOR OF MANILA, *Respondent.*	
	Promulgated: NOV 05 2015 2:58 p.m.

x --- x

DISSENTING OPINION

DEL ROSARIO, *PJ*:

With due respect, I dissent with the *ponencia* in remanding the case to the Local Board of Assessments Appeals (LBAA).

While I agree that an indispensable party must be impleaded to ensure that a final determination of the action can be had, I cannot subscribe to the opinion that the Philippine Ports Authority (PPA) is an indispensable party to this case.

In the case at bar, the issue involved is petitioner's liability, as the lessee and the party subject of an assessment by the City Assessor of Manila for real property tax (RPT) on its leased property owned by PPA. In other words, the Court is called upon to resolve whether petitioner as lessee and beneficial user of the property owned by the PPA, is liable for RPT.

At the core of the controversy then is the validity of the assessment issued against petitioner. Pursuant to Section 226 of the Local Government Code (LGC), as amended, any owner or any person having legal interest in the property, has the right to question the assessment issued by the assessor before the LBAA, *viz:*

> "SECTION 226. ***Local Board of Assessment Appeals.*** **– Any owner or person having legal interest in the property who is not satisfied with the action of the city assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment,** appeal to the Board of Assessment Appeals of the city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal." *(Emphasis supplied)*

There is no denying that the subject RPT assessment was issued to petitioner who has a legal interest in the property as lessee thereof; thus, petitioner is the real party in interest who may question the said assessment before the LBAA. Otherwise stated, the present controversy is purely between Atty. Racimo R. Estampador and the City Assessor of Manila. Needless to say, there is no need to implead PPA, as the owner of the leased property.

Considering the Supreme Court's pronouncement in *City of Pasig, Represented by the City Treasurer and the City Assessor v. Republic of the Philippines, Represented by the Presidential Commission on Good Government*[1] that the liability to pay RPT on the properties owned by the Republic of the Philippines and leased to taxable entities attaches to the Republic of the Philippines, respondent has no basis to assess petitioner for RPT:

> "Section 234(a) of Republic Act NO. 7160 states that properties owned by the Republic of the Philippines are exempt from real property tax except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person. Thus, the portions of the properties not leased to taxable entities are exempt from real property tax while the portions of the properties leased to taxable entities are subject to real property tax. **The law imposes the liability to pay real estate tax on the Republic of the Philippines for the portions of the properties leased to taxable entities.** It is, of course, assumed that the Republic of

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[1] *City of Pasig, Represented by the City Treasurer and the City Assessor v. Republic of the Philippines, Represented by the Presidential Commission on Good Government,* G.R. No. 185023, August 24, 2011, which may be analogously applied to the present controversy.

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> the Philippines passes on the real estate tax as part of the rent to the lessees." *(Emphasis supplied)*

Indubitably, petitioner, as lessee, is not liable for RPT, pursuant to Section 234(a) of the LGC, as amended. Accordingly, the assessment for RPT issued by the City of Manila against petitioner must be cancelled.

All told, I vote to grant the Petition for Review.

ROMAN G. DEL ROSARIO
Presiding Justice