REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

GMA NETWORK, INC.,
Petitioner,

-*versus*-

JOSELITO R. ALMODIENTE, in his capacity as City Treasurer of the City of Roxas,
Respondent.

CTA EB Case No. 615
(CBAA Case No. V-27)

Present:

Acosta, P.J.
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Palanca-Enriquez,
Fabon-Victorino,
Mindaro-Grulla, and
Cotangco-Manalastas, JJ.

Promulgated:
OCT 14 2011 9:00 a.m.

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DECISION

BAUTISTA, J.:

The Case

Before the Court *En Banc* is an appeal via Petition for Review,[1] under Section 3(C), Rule 8 of the Revised Rules of the Court of Tax Appeals, assailing the Decision of the Central Board of Assessment Appeals ("CBAA") dated August 13, 2009,[2] which dismissed petitioner GMA Network, Inc.'s ("GMA") appeal in CBAA Case

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[1] *Rollo.* pp. 1 – 192, with Annexes.
[2] *Rollo.* pp. 37 – 63.

No. V-27, and the Resolution dated March 1, 2010,[3] which denied GMA's Motion for Reconsideration.

The Facts

Petitioner, GMA Network, Inc. (formerly known as Republic Broadcasting System, Inc.), is a private corporation duly organized and existing under Philippine laws with principal office at GMA Network Center, EDSA corner Timog Ave., Diliman, Quezon City. It is engaged in the business of radio and television broadcasting of all kinds and types on a commercial and/or sustaining basis.[4] On the other hand, respondent, Mr. Joselito Almodiente, is the City Treasurer of Roxas City.[5]

Petitioner GMA is a grantee of the legislative franchise to operate radio and television broadcasting stations in the country under Republic Act ("R.A.") No. 7252.[6] In particular, Congress granted petitioner GMA the license "to construct, install, operate and maintain for commercial purposes and in the public interest, radio and television broadcasting stations in the Philippines with the corresponding auxiliary, special broadcast and other program and distribution services and relay stations, and to install radio communication facilities for private use in its broadcast services" for a term of 25 years.[7]

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[3] *Rollo.* pp. 64 – 72.
[4] *Rollo*, CTA EB Case No. 651, p. 3.
[5] *Rollo*, p. 4.
[6] *An Act Granting the Republic Broadcasting System, Inc. Franchise to Construct, Install, Operate and Maintain Radio and Television Broadcasting Stations in the Philippines*, which took effect on March 2, 1992.
[7] *Ibid.*

R.A. No. 7252 provides for the taxation of petitioner GMA and its franchise, Section 8 which states as follows:

> "*Section 8. Tax Provisions.* - 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 persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the radio/television business transacted under this franchise by the grantee, its successors or assigns and said percentage shall be in lieu of all taxes on this franchise or earnings thereof: *Provided*, That the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.
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> The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue."

In pursuit of its legislative franchise, petitioner GMA acquired lands, constructed buildings and improvements, and placed machineries thereon that are necessary and essential to the operation of a television network and radio broadcasting stations, in Metro Manila and various provinces.[8]

These include a parcel of land and building in Lawa-an, Roxas City, acquired by GMA to be used as a television relay station[9] The parcel of land and the accompanying building were used as a tower antenna transmitter site. These properties were listed in the assessment roll pursuant to which tax declarations were issued by the Office of the City Assessor of Roxas City, and as a consequence real

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[8] *Rollo*, pp. 4 -5.
[9] *Rollo*, p. 5.

property tax was imposed thereto.[10] GMA paid the real property taxes assessed on the properties; a total amount of P8,714.70 in real property taxes was paid by it for taxable periods 2006 and 2007.[11]

In 2006, the Supreme Court issued a decision in the case of *City Government of Quezon City vs. Bayan Telecommunications, Inc.*,[12] (*"Bayantel Case"*) where the Supreme Court upheld Bayantel's exemption from real estate tax on its real estate, buildings and personal property located in Quezon City which are actually, directly and exclusively used in the pursuit of its franchise on the basis of the *"exclusive of this franchise"* clause found in Bayantel's legislative franchise. In 2007, the Supreme Court reiterated the Bayantel ruling in the case of *Digital Telecommunications Philippines, Inc. vs. Province of Pangasinan*,[13] (*"Digitel Case"*) in finding that the *"exclusive of this franchise"* clause is an express exemption from payment of real property taxes on real properties that are exclusively, actually and directly used in pursuit of Digitel's franchise.[14]

Invoking the *Bayantel* and *Digitel Cases*, petitioner GMA wrote a letter dated January 25, 2008 to the City Treasurer of Roxas City claiming a refund of real property taxes paid for the period 2006 to 2007 totaling to P8,714,70, pursuant to GMA's franchise.[15] City Treasurer, Joselito Almodiente, received the letter on February 12, 2008. Sixty (60) days lapsed from the receipt of GMA's letter and no action was taken by the respondent.

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[10] *Ibid.*
[11] *Ibid.*
[12] G.R. No. 162015, March 6, 2006, 484 SCRA 169.
[13] G. R. No. 152534, February 23, 2007, 516 SCRA 541.
[14] *Rollo*, p. 6.
[15] *Roll,*. pp. 96 to 107; *Annex "F."*

On April 14, 2008, GMA filed a petition with the Local Board of Assessment Appeals (LBAA) of the City of Roxas from the denial by inaction of the City Treasurer of its claim for refund.[16]

On June 30, 2008, GMA received an Order dated June 24, 2008 from the LBAA requiring it to submit original or certified true copy of its Securities and Exchange Commission Certificate of Registration and other documents to prove that GMA Network, Inc. is formerly known as Republic Broadcasting System, Inc. On July 8, 2008, GMA submitted its Compliance dated July 4, 2008 with the LBAA's Order dated June 24, 2008.

On July 4, 2008, GMA received a copy of the City Treasurer's letter-comment dated May 26, 2008, wherein the City Treasurer stressed that the real property taxes were collected in view of the assessment made by the Office of the City Assessor on the land and building, and that as a consequence of these properties being listed in the assessment roll, his office imposed the corresponding real property tax. The City Treasurer further stated that GMA did not present any proof of its tax exemption within thirty (30) days from the date of declaration of real property as prescribed by Section 206 of R.A. No. 7160;[17]

On June 20, 2008, GMA filed its Reply to the City Treasurer's May 26, 2008, Letter disputing the City Treasurer's reasoning. GMA asserted that Section 253

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[16] *Rollo*, pp. 108 to 121; *Annex "G."*
[17] *Rollo*, pp. 124 to 125; *Annex "I."*

should be applied considering that a claim for real property tax refund is involved, and not Section 206 as cited by the City Treasurer.[18]

GMA emphasized that pursuant to Section 206, it also filed a separate request for exclusion from the assessment roll on January 3, 2008, before the City Assessor in order for the latter to address separately GMA's claim that the subject properties should be delisted, cancelled, or dropped from the roll of taxable real properties of the city but the said City Assessor has not yet acted upon such request up to this time.

On August 29, 2008, GMA received a copy of the LBAA's Resolution dated August 20, 2008 denying the appeal of GMA, the dispositive portion of which states:

> **WHEREFORE**, this appeal by denial of inaction of the City Treasurer on the Petitioner's claim for refund of real property tax payments for the period of 2006 to 2007 in the principal amount of Php 8,714.70 under Section 253 of R.A. 7160 is DENIED.[19]

The Ruling of the CBAA

On September 29, 2008, GMA filed its Notice of Appeal and its Appeal Memorandum with the Central Board of Assessment Appeals "(CBAA").[20]

On August 13, 2009, the CBAA issued the assailed Decision[21] denying GMA's appeal stating as follows:

> "Incidentally, all three (3) Supreme Court decisions (Bayantel, Digitel and RCPI) dealt with the said tax provisions of the franchises of the telecommunications companies. Applying,

[18] *Rollo*, pp. 126 to 132; *Annex "J."*
[19] *Rollo*, pp. 133 to 139; *Annex "K."*
[20] *Rollo*, pp. 141 - 176; *Annexes "L"* and *"M."*
[21] *Rollo*. pp. 37 - 63; *Annex "A."*

therefore, the doctrine of *stare decisis*, the Supreme Court's decision in *RCPI* (April 13, 2005), being the earliest of the three, should prevail over the same court's decisions in *Bayantel* (March 6, 2006) and *Digitel* (February 23, 2007).

Petitioner-Appellant's franchise (RA 7252, approved on March 2, 1992) contains a tax provisions similar in substance to those found in the franchises of RCPI, BAYANTEL and DIGITAL. It does not matter that any of the franchises, or the amendments thereof, were granted by Congress after the effectivity of the local Government Code of 1991 (RA 7160) on January 1, 1992. Nothing in these franchises remotely suggests that Congress intended to exempt certain telecommunication companies from payment of the real property tax.

At any rate, in *DIGITEL TELECOMMUNICATIONS PHILIPPINES, INC. VS. CITY GOVERNMENT OF BATANGAS represented by HON. ANGELITO DONDON A DIMACUHA, Batangas City Mayor, MR. BENJAMIN S. PARGAS, Batangas City Treasurer, and ATTY. TEODULFO A. DEQUITO, Batangas City Legal Officer* (G.R. No 156040, December 11, 2008) the Supreme Court decided **en banc** to reverse unequivocally the decisions of its Second and Third Divisions' in the *Bayantel* and *Digital* cases, respectively. Said the Court:

> <u>Batantel and Digitel Cases</u>
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> In *City Government of Quezon City v. Bayantel Telecommunications, Inc.* (G.R. No. 162015, 6 March 2006, 484 SCRA 169, 181), this Court's Second Division held that 'all realties which are actually, directly and exclusively used in the operation of its franchise are 'exempted' from any property tax.' The Second Division added that Bayantel's franchise being national in character, the 'exemption' granted applies to all its real and personal properties found anywhere within the Philippines. x x x
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> x x x
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> In *Digitel Telecommunications Philippines, Inc. (Digitel) v. Province of Pangasinan* (G.R. No. 152534, 23 February 2007, 516 SCRA 541, 559-560), this Court's

Third Division ruled that Digitel's real properties located within the territorial jurisdiction of Pangasinan that are actually, directly and exclusively used in its franchise are exempt from realty tax under the first sentence of Section 5 of RA 7678 x x x

x x x

Nowhere in the language of the first sentence of Section 5 of RA 7678 does it expressly or even impliedly provide that petitioner's real properties that are actually, directly and exclusively used in its telecommunications business are exempt from payment of realty tax. On the contrary, the first sentence of Section 5 specifically states that petitioner, as the franchisee, shall pay the 'same taxes on its real estate, buildings, and personal property exclusive of this franchise as other persons or corporations are now or hereafter may be required by law to pay.'

The heading of Section 5 is 'Tax Provisions,' not Tax Exemptions. To reiterate, the phrase 'exemption from real estate tax' or other words conveying exemption from realty tax do not appear in the first sentence of Section 5. The phrase 'exclusive of this franchise' in the first sentence of Section 5, merely qualifies the phrase 'personal property' to exclude petitioner's legislative franchise, which is an intangible personal property. Petitioner's franchise is subject to tax in the second sentence of Section 5 which imposes the 'franchise tax.' Thus, there is no grant of tax exemption in the first sentence of Section 5.

The interpretation of the phrase 'exclusive of this franchise' in the *Bayantel* and *Digitel* cases goes against the basic principle of construing tax exemptions. In *PLDT v. City of Davao* (G.R. No 143867, 25 March 2003, 399 SCRA 442. 453), the Court held that 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 implication of inference.'

> Tax exemptions must be clear and unequivocal. A taxpayer claiming a tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden, any doubt whether a tax exemption exists is resolved against the taxpayer.
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> **WHEREFORE**, premises considered, the instant Appeal is hereby **DENIED.**
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> **SO ORDERED.**"[22]

On September 14, 2009, GMA filed a Motion for Reconsideration. On March 1, 2010 the CBAA issued the assailed Resolution denying GMA's motion.[23]

Issues Raised by GMA[24]

GMA raises the following errors:

> **"A. WITH ALL DUE RESPECT, THE CBAA COMMITTED GRAVE REVERSIBLE ERROR WHEN IT DENIED PETITIONER GMA'S APPEAL ON THE GROUND THAT REPUBLIC ACT NO. 7252 DOES NOT CATEGORICALLY GRANT EXEMPTION FROM REAL PROPERTY TAX TO PETITIONER GMA; and**
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> **B. WITH ALL DUE RESPECT, THE CBAA COMMITTED GRAVE REVERSIBLE ERROR WHEN IT DENIED PETITIONER GMA'S APPEAL BASED ON THE SUPREME COURT'S RULING IN THE CASE ENTITLED *"DIGITEL TELECOMMUNICATIONS PHILIPPINES, INC. VS. CITY GOVERNMENT OF BATANGAS.' G.R. NO. 156040, DECEMBER 11, 2008."***

The Ruling of the Court En Banc

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[22] *Rollo*. pp. 61 – 62.
[23] *Rollo*. pp. 64 – 72; *Annex "B."*
[24] *Rollo*. p. 11.

The Court *En Banc* finds no reason to overturn or modify the Decision of the CBAA dated August 13, 2009, dismissing petitioner GMA's appeal in CBAA Case No. V-27, and the Resolution dated March 1, 2010 denying the Motion for Reconsideration.

The issues raised by GMA in its petition have been discussed and decided by the CBAA, and no new matters have been raised.

This case revolves around the interpretation of the phrase "exclusive of this franchise" as contained in the first sentence of Section 8 of R.A. No. 7252, as follows:

> "*Section 8. Tax Provisions.* - 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 persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the radio/television business transacted under this franchise by the grantee, its successors or assigns and said percentage shall be in lieu of all taxes on this franchise or earnings thereof: *Provided*, That the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.
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> xxx"

Petitioner relies on the interpretation made by the Supreme Court in *Bayantel*[25] and *Digitel*[26] *Cases* to bolster its argument for the exclusion of its properties from the roll of assessments of taxable properties.

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[25] *Supra*, note 12.
[26] *Supra*, note 13.

The abovementioned cases interpreted the phrase "exclusive of this franchise" as exempting those real properties actually, directly and exclusively used by the grantee in its franchise.

The *Bayantel Case* explained:

> "The legislative intent expressed in the phrase 'exclusive of this franchise' cannot be construed other than distinguishing between two (2) sets of properties, be they real or personal, owned by the franchisee, namely, (a) those actually, directly and exclusively used in its radio or telecommunications business, and (b) those properties which are not so used. It is worthy to note that the properties subject of the present controversy are only those which are admittedly falling under the first category.
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> While Section 14 of Rep. Act No. 3259 may be validly viewed as an implied delegation of power to tax, the delegation under that provision, as couched, is limited to impositions over properties of the franchisee which are not actually, directly and exclusively used in the pursuit of its franchise. Necessarily, other properties of Bayantel directly used in the pursuit of its business are beyond the pale of the delegated taxing power of local governments. In a very real sense, therefore, real properties of Bayantel, save those exclusive of its franchise, are subject to realty taxes. Ultimately, therefore, the inevitable result was that all realties which are actually, directly and exclusively used in the operation of its franchise are exempted from any property tax."[27]

The same conclusion was arrived at by the Third Division of the Supreme Court in the *Digitel Case*, to wit:

> "In view of the unequivocal intent of Congress to exempt from real property tax those real properties actually, directly and exclusively used by petitioner Digitel in the pursuit of its franchise, respondent Province of Pangasinan can only levy real property tax on the remaining real properties of the grantee located within its territorial jurisdiction not part of the above-

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[27] *Supra*, note 12.

> stated classification. Said exemption, however, merely applies from the time of the effectivity of petitioner Digitel's legislative franchise and not a moment sooner."[28]

However, as noted by the CBAA's Decision,[29] the Supreme Court *En Banc* in the case of *Digital Telecommunications Philippines, Inc. vs. City Government of Batangas represented by Hon. Angelito Dondon A. Dimacuha, Batangas City Mayor, Mr. Benjamin S. Pargas, Batangas City Treasurer, and Atty. Teodulfo A. Dequito, Batangas City Legal Officer,*[30] reversed the rulings in the *Bayantel* and *Digitel Cases*, to wit:

> "In *City Government of Quezon City v. Bayan Telecommunications, Inc.*, this Court's Second Division held that all realties which are actually, directly and exclusively used in the operation of its franchise are exempted from any property tax. The Second Division added that Bayantel's franchise being national in character, the exemption granted applies to all its real and personal properties found anywhere within the Philippines. x x x
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> x x x
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> In *Digital Telecommunications Philippines, Inc. (Digitel) v. Province of Pangasinan*, this Court's Third Division ruled that Digitel's real properties located within the territorial jurisdiction of Pangasinan that are actually, directly and exclusively used in its franchise are exempt from realty tax under the first sentence of Section 5 of RA 7678. x x x
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> x x x
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> Nowhere in the language of the first sentence of Section 5 of RA 7678 does it expressly or even impliedly provide that petitioner's real properties that are actually, directly and exclusively used in its telecommunications business are exempt from payment of realty tax. On the contrary, the first sentence of Section 5 specifically states that the petitioner, as the franchisee, shall pay the same taxes on its real estate, buildings, and personal property exclusive of this franchise as other persons or

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[28] *Supra*, note 13.
[29] *Rollo*, p. 62.
[30] G.R. No. 156040, December 11, 2008, 573 SCRA 605.

corporations are now or hereafter may be required by law to pay.

The heading of Section 5 is 'Tax Provisions', not Tax Exemptions. To reiterate, the phrase 'exemption from real estate tax' or other words conveying exemption from realty tax do not appear in the first sentence of Section 5. The phrase 'exclusive of this franchise' in the first sentence of Section 5 merely qualifies the phrase 'personal property' to exclude petitioner's legislative franchise, which is an intangible personal property. Petitioner's franchise is subject to tax in the second sentence of Section 5 which imposes the 'franchise tax.' Thus, there is no grant of tax exemption in the first sentence of Section 5.

The interpretation of the phrase 'exclusive of this franchise' in the *Bayantel* and *Digitel* cases goes against the basic principle in construing tax exemptions."[31] (*citations omitted*)

The interpretation of the phrase "exclusive of this franchise" was exhaustively discussed and explained by the Supreme Court *En Banc*, as follows:

"The first sentence of Section 5 RA 7678 is the same provision found in almost all legislative franchises in the telecommunications industry dating back to 1905. It is also the same provision that appears in the legislative franchises of other telecommunications companies like Philippine Long Distance Telephone Company, Smart Information Technologies, Inc., and Globe Telecom. Since 1905, no telecommunications company has claimed exemption from realty tax based on the phrase 'exclusive of this franchise', until petitioner filed the present case on 3 July 1999.

The first sentence of Section 5 clearly states that the legislative franchisee shall be liable to pay the following taxes: (1) the same taxes on its real estate, buildings, and personal property exclusive of this franchise as other persons or corporations are now or hereafter may be required by law to pay; (2) franchise tax as may be prescribed by law of all gross receipts of the telephone or other telecommunications business transacted under this franchise; and (3) income taxes payable under Title II of the National Internal Revenue Code.

[31] *Ibid.*

The crux of the controversy lies in the interpretation of the phrase 'exclusive of this franchise' in the first sentence of Section 5. Petitioner interprets the phrase to mean that its real properties that are used in its telecommunications business shall not be subject to realty tax. Respondent interprets the same phrase to mean that the term personal property shall not include petitioner's franchise, which is an intangible personal property.

We rule that the phrase 'exclusive of this franchise' simply means that petitioner's franchise shall not be subject to the taxes imposed in the first sentence of Section 5. The first sentence lists the properties that are subject to taxes, and the list excludes the franchise. Thus, the first sentence provides:

> The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal property **exclusive of this franchise** as other persons or corporations are now or hereafter may be required by law to pay.(Emphasis supplied)

A plain reading shows that the phrase 'exclusive of this franchise' is meant to exclude the legislative franchise from the properties subject to taxes under the first sentence. In effect, petitioner's franchise, which is personal property, is not subject to the taxes imposed on properties under the first sentence of Section 5.

However, petitioner's gross receipts from its franchise are subject to the 'franchise tax' under the second sentence of Section 5. Thus, the second sentence provides:

> In addition thereto, the grantee shall pay to the Bureau of Internal Revenue each year, within thirty (30) days after the audit and approval of the accounts, a **franchise tax** as may be prescribed by law of all gross receipts of the telephone or other telecommunications businesses transacted under this franchise by the grantee; xxx (Emphasis supplied)

In short, petitioner's franchise is excluded from the properties taxable under the first sentence of Section 5 but the gross receipts from its franchise are expressly taxable under the second sentence of the same Section.

The first sentence of Section 5 imposes on the franchisee the 'same taxes' that non-franchisees are subject to with respect to real and personal properties. The clear intent is to put the franchisees and non-franchisees in parity in the taxation of their real and personal properties. Since non-franchisees have obviously no franchises, the franchise must be excluded from the list of properties subject to tax to maintain the parity between the franchisees and non-franchisees. However, the franchisee is taxable separately from its franchise. Thus, the second sentence of Section 5 imposes the 'franchise tax' on gross receipts, which under Republic Act No. 7716 has been replaced by the 10% Value Added Tax effective 1 January 1996.

Section 5 can be divided into three parts. First is the sentence which imposes taxes on real and personal properties, excluding one property, that is, the franchise. This puts in parity the franchisees and non-franchisees in the taxation of real and personal properties. Second is the second sentence which imposes the franchise tax, which is applicable solely to the franchisee. And third is the proviso in the second sentence that imposes the income tax on the franchisee, the same income tax payable by non-franchisees.

Petitioner claims that the first sentence refers only to real properties, and that the phrase 'exclusive of this franchise' exempts petitioner from realty tax on its real properties used in its telecommunications business. This claim has no basis in the language of the law as written in the first sentence of Section 5. First, the first sentence expressly refers to taxes on 'real estate' and on 'personal property.' Clearly, the first sentence does not refer only to taxes on real properties, but also to taxes on personal property. x x x

x x x

Second, there is no language in the first sentence of Section 5 expressly or impliedly exempting petitioner from the realty tax. The phrases 'exemption from real estate tax,' 'free from real estate tax' or 'not subject to real estate tax' do not appear in the first sentence. No matter how one reads the first sentence, there is no grant of exemption, express or implied, from realty tax. In fact, the first sentence expressly imposes taxes on both real and

> personal properties, excluding only the intangible personal property that is the franchise.
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> A tax exemption cannot arise from vague inference. The first sentence of Section 5 does not grant any express or even implied exemption from realty tax. On the contrary, the first sentence categorically states that the franchisee is subject to the 'same taxes' currently imposed, and those taxes that may be subsequently imposed, on other persons or corporations, taxpayers that admittedly are all subject to realty tax. The first sentence does not limit the imposition of the 'same taxes' to realty tax only but even to those taxes that may in the future be imposed on other taxpayers, which future taxes shall also be imposed on petitioner. Thus, the first sentence of Section 5 imposes on petitioner not only realty tax but also other taxes.
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> The phrase 'personal property exclusive of this franchise' merely means that personal property does not include the franchise even if the franchise is an intangible personal property. Stated differently, the first sentence of Section 5 provides that petitioner shall pay tax on its real properties as well as on its personal properties but the franchise, which is an intangible personal property, shall not be deemed personal property."[32]

Clearly, it has been established that petitioner is not exempt from realty tax, and that the phrase "exclusive of this franchise" does not provide for any tax exemption.

Petitioner further argues that the CBAA's reliance on the above quoted case is misplaced and that the 2008 Supreme Court decision cannot be applied retroactively to GMA because its claim for tax exemption covers taxable years during which the *Bayantel* and the *Digitel* decisions were in force.[33]

Again, GMA's argument does not hold water.

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[32] *Ibid.*
[33] *Rollo*, p. 36.

As discussed by the CBAA in the assailed decision, Article 4 of the New Civil Code provides that "laws shall have no retroactive effect, unless the contrary is provided." Article 8 of the Code provides that "judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." Thus, the absence of any tax exemption granted to petitioner starts from the date of its franchise. It is noteworthy that it is only upon the effectivity of the statute that legal rights and obligations become available to those entitled by the language of the statute.[34] Consequently, a Court's interpretation of the law is part of that law as of the date of its enactment since the Court's interpretation merely establishes contemporary legislative intent that the construed law purports to carry into effect.[35]

Petitioner has always been subject to the realty tax on its properties. Even when the *Bayantel* and *Digitel Cases* were in force, no exemption was granted under its franchise.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of merit. The Decision of the CBAA dated August 13, 2009 and the Resolution dated March 1, 2010, in CBAA Case No. V-27 are hereby **AFFIRMED.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[34] *Abakada Guro Party List, et. al. v. Cesar V. Purisima, et. al.*, G.R. No. 166715, August 14, 2008, 562 SCRA 251.

[35] *Philippine Constitution Association, Exequiel B. Garcia and A. Gonzales vs. Hon. Salvador Enriquez, as Secretary of Budget and Management; Hon. Vicente T. Tan, as National Treasurer and Commission on Audit*; G.R. No. 113105, August 19, 1994, 235 SCRA 506 ; citing People vs. Licera, L-39990, July 22, 1975, 65 SCRA 270.

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

(On Leave)
OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
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 this Court.

ERNESTO D. ACOSTA
Presiding Justice