REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

-*versus*-

HON. FERNANDO M. FANDIÑO, in his capacity as City Assessor, Pasay City, LOCAL BOARD OF TAX ASSESSMENT APPEALS OF PASAY CITY, and CENTRAL BOARD OF ASSESSMENT APPEALS,
Respondents.

CTA EB NO. 2201
(CBAA Case No. L-138-2017
LBTAA Case No. 013-6)

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HON. FERNANDO M. FANDIÑO, in his capacity as City Assessor, Pasay City,
Petitioner,

-*versus*-

BANGKO SENTRAL NG PILIPINAS,
Respondent.

CTA EB NO. 2205
(CBAA Case No. L-138-2017
LBTAA Case No. 013-6)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAY 18 2021 3:15pm

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D E C I S I O N

MANAHAN, J.:

Before the Court *En Banc* are consolidated *Petitions for Review* docketed as **CTA EB No. 2201** and **CTA EB No. 2205**, both partially assailing the Decision dated July 1, 2019[1] and Resolution dated November 8, 2019[2] rendered by the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-138-2017 (LBTAA Case No. 013-6), entitled "*Bangko Sentral ng Pilipinas, Petitioner-Appellant, versus Local Board of Tax Assessment Appeals of Pasay City, Appellee, and Hon. Fernando M. Fandiño, in his capacity as City Assessor, Pasay City, Respondent Appellee,*" the dispositive portions of which respectively read:

Decision dated July 1, 2019:

"**WHEREFORE**, in view of all the foregoing, this Board hereby **RESOLVES:**

1. To **GRANT** Petitioner-Appellant's prayer to reclassify as **special-cultural** those portions of the subject properties which are involved with cultural values as defined in Manila Prince case, such as:

   1.1 portions that house works of various Filipino artists in painting and sculpture;
   1.2 portions of the subject properties that cover the location of the BSP Museum, for these properties are being used actually, directly and exclusively for cultural purposes; and

2. To **GRANT** Petitioner-Appellant's prayer to reclassify as special-cultural those portions of the subject properties that are specifically used for the following purposes and activities:

   a. concerts of local and international artists;
   b. weddings;
   c. graduations;
   d. oath-taking ceremonies;
   e. cultural exhibitions; and
   f. local and international conventions, summits and fora

   In order to confirm the classification as **special-cultural** the following must be complied with by the parties concerned:

   a. Petitioner-Appellant shall submit to Respondent-Appellee all information as to the date, time,

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[1] EB Docket (CTA EB No. 2201), pp. 28 to 71; EB Docket (CTA EB No. 2205) – Vol. 1, pp. 35 to 78.

[2] EB Docket (CTA EB No. 2201), pp. 73 to 84; EB Docket (CTA EB No. 2205) – Vol. 1, pp. 80 to 91.

specific purpose of the event, the name of the event facility and identity of the renter of all the events conducted in the subject properties. For future taxable years the information must be given at least one week before the actual use;

b. The parties shall compare the data of the City of Pasay and information given by Petitioner-Appellant to determine whether or not they have the same information, in case of discrepancy, the parties shall reconcile their data before classifying the property;

c. Respondent-Appellee is directed to determine the precise portion of the subject properties used for abovestated events;

d. If the event facility is **predominantly** used throughout the year as to the events enumerated, that portion of the subject properties shall be classified as cultural. The annual results shall be the basis of the classification of the real property for that particular taxable year.

3. As to other portions of the subject properties whose usage are not among those stated in the preceding paragraph and their actual use is not reflective of Filipino Culture as defined in R.A. No. 7356 and the ***Manila Prince case*** or failed to comply with Section 206 of the LGC they should be classified as commercial;

4. Respondent-Appellee is directed to determine the precise portion of the subject properties (both land and building or machinery) in all above instances; and

5. To **DENY** Petitioner-Appellant's alternative prayer to declare that PICC properties are exempt from real property taxes for failure to comply with Section 206 of the LGC.

SO ORDERED."

Resolution dated November 8, 2019:

"**WHEREFORE**, the Board finds no cogent justifiable reason to modify, revise nor amend its Decision dated July 1, 2019. Hence, the parties' motions are hereby ordered **DENIED** for lack of merit and the decision of the Board dated July 1, 2019 stands.

SO ORDERED."

FACTS

The *Bangko Sentral ng Pilipinas* (BSP) is the independent central monetary authority of the Republic of the Philippines, with address at BSP Complex, Mabini corner P. Ocampo Streets, Malate, Manila.[3]

Mr. Fernando M. Fandiño is the City Assessor of Pasay City (City Assessor of Pasay), with address at the Office of the City Assessor, Pasay City Hall, F.B. Harrison, Pasay City.[4]

The Local Board of Tax Assessment Appeals (LBTAA) is impleaded in its capacity as a nominal party, having rendered the decision and order appealed before the CBAA.[5]

The CBAA is likewise impleaded in its capacity as a nominal party, having rendered the assailed Decision and Resolution.[6]

The antecedents of the instant consolidated cases, as culled from the assailed Decision of the CBAA in Case No. L-138-2017, read as follows:

> "Pursuant to Presidential Decree ('P.D.') No. 520 dated July 23, 1974, the then Central Bank of the Philippines ('CBP') established the PICC to serve as the country's principal facility in hosting international conferences, meetings, conventions, and the like. The construction of PICC is in line with the Government's policy to make Manila one of the financial centers of the region. Under P.D. No. 520, the CBP was authorized to acquire a suitable site upon which to construct such buildings and physical facilities as are deemed necessary for its proper operation (collectively referred to as 'PICC properties').
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> Thus, the CBP acquired and became registered owner of the PICC properties located in the Cultural Center of the Philippines ('CCP') Complex, Pasay City. The PICCI,[7] on the other hand, was established to manage the operations and

[3] Par. 5, The Parties, *Petition for Review,* Docket (CTA EB No. 2201), p. 3; Par. 9, Parties, *Petition for Review,* Docket (CTA EB No. 2205) – Vol. 1, p. 7.
[4] Par. 6, The Parties, *Petition for Review*, Docket (CTA EB No. 2201), Docket, p. 3; Par. 8, Parties, *Petition for Review,* Docket (CTA EB No. 2205) – Vol. 1, p. 7.
[5] Par. 7, The Parties, *Petition for Review*, Docket (CTA EB No. 2201), Docket, p. 3.
[6] Par. 8, The Parties, *Petition for Review*, Docket (CTA EB No. 2201), Docket, p. 3.
[7] That is, the Philippine International Convention Center, Inc.

administer the properties of the PICC. By virtue of R.A. No. 7653, (the New Central Bank Act), certain assets of the then CBP, including the PICC properties, were transferred to the BSP.

The PICC properties, as they presently exist, and which are listed below their corresponding Tax Declarations and Transfer Certificates of Title, were classified as 'Commercial' by the City Government of Pasay, for purposes of real property taxation.

Kind	Tax Declaration No./TCT No.	Market Value	Assessed Value	Assessment Level	Date of Notice of Assessment
Land	B1-076-06049/142369	300,510,000	150,255,000	50	July 3, 2013
Land	B1-076-06050/142369	2,327,880,000	163,940,000	50	July 3, 2013
Land	B1-076-06051/142639	37,161,000	18,580,500	50	July 3, 2013
Land	B1-076-04000/145771	530,670,000	265,335,000	50	March 27, 2008
Land	B1-076-03999/145770	69,330,000	34,665,000	50	March 27, 2008
Building	B1-076-02395	110,552,040	88,441,630	80	March 27, 2008
Building	B1-076-06961	121,266,690	97,013,350	80	March 7, 2011
Machinery	B1-076-02396	1,771,470	1,417,180	80	March 27, 2008

The BSP, in [the] Letter dated 27 February 2013 to Respondent-Appellee City Assessor, applied for reclassification of the foregoing properties from 'commercial' to 'special cultural' in view of the nature of the use of the PICC properties as cultural conformably to the mandate of P.D. No. 520.

Respondent-Appellee City Assessor denied the request in a Letter dated 2 May 2013. Respondent-Appellee City Assessor stated that the PICC properties are not actually, directly, and exclusively used for cultural purposes and cited the following reasons:

(a) the PICC is under lease to various business and commercial establishments such as Land Bank of the Philippines, Philippine National Bank, Philippine Charity Sweepstakes Office and Via Mare Restaurant;
(b) six (6) permits to hold concerts at the PICC, featuring foreign and local artists, had been issued by the Office of the Pasay City Mayor, for the period of October 2010 to February 2013; and
(c) it is of public knowledge that the PICC is the preferred venue for graduation ceremonies and similar events. Moreover, Respondent-Appellee City Assessor equated the request for reclassification to a request for exemption which should be construed strictly against the claimant.

Aggrieved, the BSP, on 12 July 2013, filed an appeal to the LBTAA Pasay City, asserting that Respondent-Appellee

> City Assessor erred in failing to determine that the PICC is actually, directly, and exclusively used for cultural purposes; in failing to recognize that the PICC properties are exempt from real property taxes; and in relying on the rule of strict interpretation of tax exemptions.
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> On 16 June 2016, the BSP received the LBTAA's Decision dated 29 February 2016 denying BSP's appeal on the ground that PICC properties are not actually, directly, and exclusively used for cultural purposes because they are being leased out to various business and commercial establishments, as well as international and local artists for concerts; and, used as venue for events which are not in any way cultural in nature.
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> On 01 July 2016, the BSP filed its Motion for Reconsideration dated 29 June 2016, reiterating its stance that the PICC properties are actually, directly and exclusively used for cultural purposes, and asserting the BSP's exemption from real property taxes as a government instrumentality.
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> Subsequently, on 02 November 2017, the BSP received LBTAA's Order dated 05 June 2017 denying its Motion for Reconsideration for lack of merit, finding no cogent reason to reverse its Decision and decreeing that the BSP is liable for real property taxes assessed against its PICC properties as BSP is not a government instrumentality contemplated under Sections 133 and 234 of the LGC. Aggrieved by the Decision and Order of the LBTAA Pasay City, Petitioner-Appellant filed its Appeal before this Board."

On July 1, 2019, the CBAA promulgated the said assailed Decision.[8]

On August 8, 2019, the BSP filed its *Motion for Partial Reconsideration*,[9] praying that the CBAA partially reconsider its *Decision* dated July 1, 2019, and grant BSP's prayer to declare the PICC properties as exempt from real property taxes.

For his part, the City Assessor of Pasay filed, on August 9, 2019, his *Motion for Partial Reconsideration (Re: Decision Dated 01 July 2019)*,[10] praying that the *Decision* dated July 1,

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[8] EB Docket (CTA EB No. 2201), pp. 28 to 71; EB Docket (CTA EB No. 2205) – Vol. 1, pp. 35 to 78.
[9] EB Docket (CTA EB No. 2201), pp. 133 to 142.
[10] EB Docket (CTA EB No. 2205) – Vol. 2, pp. 817 to 826.

2019 be partially reversed and set aside, and in lieu thereof, a new one be issued, dismissing the BSP's appeal in all aspects for utter lack of merit in fact and in law. Thereafter, the City Assessor of Pasay filed on August 23, 2019 his *Comment/Opposition (Re: Petitioner-Appellant BSP's Motion for Partial Reconsideration dated 08 August 2019)*.[11]

In the assailed Resolution dated November 8, 2019,[12] the CBAA denied the parties' motions for lack of merit, and ruled that its *Decision* dated July 1, 2019 stands.

On December 18, 2019, the BSP filed its *Petition for Review* with this Court *En Banc*.[13] The case was docketed as **CTA EB No. 2201**. In the said *Petition for Review*, BSP prays for: (1) the reversal of the denial of its alternative prayer in its appeal in CBAA Case No. L-138-2017; and (2) the declaration that the PICC properties are exempt from real property taxes.

On the other hand, on the same date, the City Assessor of Pasay posted his *Petition for Review*, likewise with this Court *En Banc*.[14] The case was docketed as **CTA EB No. 2205**. In the said *Petition for Review*, the City Assessor of Pasay prays for the partial reversal and setting aside of the CBAA's *Decision* dated July 1, 2019 in the same CBAA Case No. L-138-2017, and in lieu thereof, a new one be issued, dismissing BSP's appeal in all aspects for lack of merit.

On January 6, 2020 this Court *En Banc* ordered the consolidation of CTA EB No. 2205 with CTA EB No. 2201, the case bearing the lower docket number.[15]

Subsequently, on January 9, 2020, BSP filed its *Comment* in **CTA EB No. 2205**.[16]

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[11] EB Docket (CTA EB No. 2205) – Vol. 2, pp. 837 to 844.
[12] EB Docket (CTA EB No. 2201), pp. 73 to 84; EB Docket (CTA EB No. 2205) – Vol. 1, pp. 80 to 91.
[13] EB Docket (CTA EB No. 2201), pp. 1 to 25.
[14] EB Docket (CTA EB No. 2205) – Vol. 1, pp. 1 to 22.
[15] Minute Resolution dated January 6, 2020, EB Docket (CTA EB No. 2201), p. 144.
[16] EB Docket (CTA EB No. 2201), pp. 148 to 157; cf: *Motion to Admit Attached Comment*, EB Docket (CTA EB No. 2201), pp. 145 to 147; Resolution dated January 29, 2020, pp. 160 to 161.

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In the Resolution dated January 29, 2020,[17] this Court *En Banc*, with respect to **CTA EB No. 2201**, and without necessarily giving due course to the *Petition for* Review, ordered, *inter alia*, the City Assessor of Pasay, to file his comment within ten (10) days from notice, and for the BSP to file a copy of its *Affidavit of Filing and Service of the Petition for Review* within the same period.

The BSP then submitted copies of the *Affidavit of Filing and Service of the Petition for Review* on February 10, 2020.[18]

In the meantime, on February 12, 2020, the City Assessor of Pasay filed his *Comment (Re: Bangko Sentral ng Pilipinas's Petition for Review Dated 18 December 2019)* in **CTA EB No. 2201**.[19]

In the Resolution dated July 17, 2020,[20] this Court *En Banc* deemed the consolidated cases submitted for decision.

ISSUES

In **CTA EB No. 2201**, BSP raises this lone issue for resolution of this Court *En Banc*, to wit:

> "Whether the CBAA erred in denying BSP's alternative prayer to declare the PICC properties exempt from real property taxes on the ground of failure to comply with Section 206 of the Local Government Code."[21]

For his part, the City Assessor of Pasay, in **CTA EB No. 2205**, raises the following issues to be resolved by this Court *En Banc*, *viz.*:

> "i. Whether or not the Honorable CBAA erred in deciding that the following PICC properties are entitled to be reclassified as special-cultural:

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[17] EB Docket (CTA EB No. 2201), pp. 160 to 162.
[18] *Compliance* dated February 10, 2020, EB Docket (CTA EB No. 2201), pp. 164 to 165.
[19] EB Docket (CTA EB No. 2201), pp. 169 to 178.
[20] EB Docket (CTA EB No. 2201), pp. 187 to 188.
[21] Issues, *Petition for Review*, EB Docket (CTA EB No. 2201), p. 13.

i.a. Portions that house the works of various Filipino artists in painting and sculpture; and

i.b. Portions that cover the location of the BSP museum; and

ii. Whether or not the Honorable CBAA erred in deciding that the portions of PICC properties which are used as venue for concerts of local and international artists, weddings, oath-taking ceremonies, cultural exhibitions, as well as local and international conventions, summits, and fora be reclassified as special-cultural."[22]

CTA EB No. 2201

BSP's arguments:

BSP argues that the CBAA erred in denying its alternative prayer to declare the PICC properties exempt from real property taxes; that its exemption from real property taxes is provided under Sections 133(o) and 234(a) of Republic Act (RA) No. 7160 or the Local Government Code (LGC) of 1991, and not premised upon compliance with Section 206 of the same Code; that it is not its burden to prove the claim that its PICC properties, which are essentially owned by the Republic of the Philippines, are exempt from real property taxes; that assuming *arguendo* that it is covered by Section 206 of the LGC which mandates the timely submission of sufficient documentary evidence, it need not comply with the same because insofar as the City Assessor of Pasay is concerned and based on his own records, the PICC properties are already exempt from real property taxes, being owned by the Republic of the Philippines, and listed, valued, and assessed in BSP's name; that the City Assessor of Pasay himself did not raise as issue BSP's alleged non-compliance with Section 206 of the LGC to defeat its claim for real property tax exemption of its PICC properties; and that the exemption of its PICC properties is supported by jurisprudence.

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[22] Issues, *Petition for Review*, EB Docket (CTA EB No. 2205) – Vol.1, p. 13.

The City Assessor's counter-arguments:

The City Assessor of Pasay counters that BSP's *Petition for Review* is not legally appropriate; that the same must be dismissed because the BSP has no cause of action in filing the present petition as its main prayer for reclassification of PICC properties from commercial to special-cultural was granted; that Section 206 of the LGC is applicable in this case; that BSP's theory is baseless; and that the PICC properties are neither exempt from real property taxes, nor are they actually, directly, and exclusively used for cultural purposes.

CTA EB No. 2205

City Assessor's arguments:

The City Assessor of Pasay argues that the works of various Filipino artists in painting and sculptor are movables and not real properties; that the *Manila Prince Hotel vs. GSIS* (*Manila Price Hotel* case)[23] is not applicable in this dispute; and that the PICC properties are not actually, directly, and exclusively used for cultural purposes.

BSP's counter-arguments:

The BSP counter-argues that the City Assessor of Pasay errs in claiming that the CBAA reclassified as special-cultural the works of various Filipino artists in paintings and sculptures; that he errs in claiming that the *Manila Price Hotel* case is inapplicable in the instant case; that he errs in claiming that the PICC properties used as venue for concerts of local and international artists, weddings, oath-taking ceremonies, cultural exhibitions, local and international conventions, summits, and fora are not actually, directly, and exclusively used for cultural purposes; and that he is estopped from raising as issue the listing of PICC properties as cultural property in the records of the National Commission on Culture and the Arts, National Historical Commission of the Philippines, and the National Museum of the Philippines.

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[23] G.R. No. 122156, February 3, 1997.

RULING OF THE COURT

The instant *Petition for Review* filed by BSP in **CTA EB No. 2201** must be *partially* granted; while the *Petition for Review* filed by the City Assessor of Pasay in **CTA EB No. 2205** must be denied.

Real property taxes are annual taxes levied on real property such as lands, buildings, machinery, and other improvements not otherwise specifically exempted under the LGC. Real property taxes are *ad valorem*, with the amount charged based on a fixed proportion of the value of the property.[24]

Under the LGC of 1991, local government units (LGUs) are granted the power to levy taxes on real property not otherwise specifically exempted therein, *viz.*:

> "Section 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."

Notwithstanding the grant of the said power to LGUs, the same law provides specific limitations. The *first* of which is Section 133(o) of the LGC of 1991, which provides as follows:

> "Section 133. *Common Limitations on the Taxing Powers of Local Government Units.* – **Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following**:
>
> xxx xxx xxx
>
> (o) **Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities**, and local government units." *(Emphases and underscoring added)*

This *first* limitation provides a general rule, that is, that LGUs cannot levy any taxes, fees, or charges of any kind on

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[24] *City of Lapu-Lapu vs. Philippine Economic Zone Authority, etseq.*, G.R. Nos. 184203 and 187583, November 26, 2014.

the national government or its agencies and instrumentalities. The provision, however, also provides for an exception: "[u]*nless otherwise provided herein*". The implication, therefore, is that while a government agency or instrumentality is generally tax-exempt, the LGC may provide for instances when it could be taxable.[25]

The *second* limitation is provided for under Section 234 of the same law, which enumerates the properties that are specifically exempted from the payment of real property taxes. It reads:

> "Section 234. *Exemptions from Real Property Tax.* – **The following are exempted from payment of the real property tax:**
>
> **(a) Real property owned by the Republic of the Philippines or any of its political subdivisions <u>except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person</u>;**
>
> (b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit 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 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 person, whether natural or juridical, including all government-owned or – controlled corporations are hereby withdrawn upon the effectivity of this Code."

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[25] *Metropolitan Waterworks and Sewerage System vs. The Local Government of Quezon City, et al.*, G.R. No. 194388, November 7, 2018.

These exemptions are based on the ownership, character, and use of the property. Thus:

(1) *Ownership Exemptions.* Exemptions from real property taxes on the basis of ownership are real properties owned by: (i) the Republic, (ii) a province, (iii) a city, (iv) a municipality, (v) a barangay, and (vi) registered cooperatives.

(2) *Character Exemptions.* Exempted from real property taxes on the basis of their character are: (i) charitable institutions, (ii) houses and temples of prayer like churches, parsonages or convents appurtenant thereto, mosques, and (iii) non-profit or religious cemeteries.

(3) *Usage Exemptions.* Exempted from real property taxes on the basis of the actual, direct and exclusive use to which they are devoted are: (i) all lands, buildings and improvements which are actually, directly and exclusively used for religious, charitable or educational purposes; (ii) all machineries and equipment actually, directly and exclusively used by local water districts or by government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power; and (iii) all machinery and equipment used for pollution control and environmental protection.[26]

Thus, any person or entity claiming exemption under the above-quoted Section 234 must show that the real property in question, falls under any one those enumerated therein, either by virtue of **ownership**, character, or use of the property.

Indeed, real properties **owned** by the Republic, whether titled in the name of the Republic itself or in the name of agencies or instrumentalities of the national government, are exempt from real property tax.[27] However, the tax exemption of real property owned by the Republic, its political

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[26] *Mactan Cebu International Airport Authority vs. Marcos, et al.*, G.R. No. 120082, September 11, 1996.

[27] *Philippine Heart Center vs. The Local Government of Quezon City, et al.*, G.R. No. 225409, March 11, 2020.

subdivisions, agencies or instrumentalities ceases if the beneficial use of the real property has been granted, for consideration or otherwise, to a taxable person.[28]

In other words, the said *second* limitation likewise provides for its own exceptions. Under Section 234(a), the general rule is that any real property owned by the Republic or its political subdivisions is exempt from the payment of real property tax *"except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person"*. The implication is that real property, even if owned by the Republic or any of its political subdivisions, may still be subject to real property tax if the beneficial use of the real property was granted to a taxable person.[29]

Pertinently, a **government instrumentality** exercising corporate powers is **not liable** for the payment of real property taxes on its properties unless it is alleged and proven that the beneficial use of its properties has been extended to a taxable person.[30]

Indisputably, BSP is a government instrumentality exercising corporate powers. No less than the City Assessor of Pasay has admitted that BSP is a government instrumentality.[31] Furthermore, in *Republic of the Philippines represented by the Philippine Reclamation Authority (PRA) vs. City of Parañaque*,[32] the Supreme Court has identified BSP as a government instrumentality vested with corporate powers, to wit:

> "**Many government instrumentalities are vested with corporate powers** but they do not become stock or non-stock corporations, which is a necessary condition before an agency or instrumentality is deemed a GOCC. **Examples are** the Mactan International Airport Authority,

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[28] *Herarc Realty Corporation vs. The Provincial Treasurer of Batangas, et al.*, G.R. No. 210736, September 5, 2018.

[29] *Metropolitan Waterworks and Sewerage System vs. The Local Government of Quezon City, et al.*, supra.

[30] *Metropolitan Waterworks and Sewerage System vs. The Local Government of Quezon City, et al.*, G.R. No. 194388, November 7, 2018.

[31] Refer to Par. 3, *Petition [Appeal from the City Assessor's denial of the BSP's request for reclassification of the PICC Properties]* vis-à-vis Par. 1, *Answer* [both filed before the LBTAA of Pasay City], EB Docket (CTA EB No. 2205) – Vol. 1, pp. 98 and 114, respectively.

[32] G.R. No. 191109, July 18, 2012.

> the Philippine Ports Authority, the University of the Philippines, and **Bangko Sentral ng Pilipinas. All these government instrumentalities exercise corporate powers** but they are not organized as stock or non-stock corporations as required by Section 2(13) of the Introductory Provisions of the Administrative Code. xxx." *(Emphases and underscoring added)*

Thus, the BSP, being a government instrumentality, is covered by the real property tax exemption granted under Section 234(a) of the LGC of 1991. Such being the case, real properties owned by BSP are exempt from real property tax, *except* when the beneficial use thereof has been granted to a taxable person, for consideration or otherwise.

It must be emphasized, however, that BSP's real property tax exemption under Section 234(a) of the LGC of 1991 is anchored on its *ownership* over its real properties, and not on the *usage* thereof. Such being the case, so long as the beneficial use of such real properties is not granted to a taxable person, the same real properties are exempt from real property taxation under the said provision. Correspondingly, it was error for the CBAA to classify, in the main, portions of the PICC properties either as "special-cultural" or "cultural", based solely on the *usage* thereof (whether pre-dominantly or otherwise), without first considering BSP's *ownership* of the same.

In any event, it must be stressed that it is the *"taxable person"* with beneficial use who shall be responsible for payment of real property taxes due on government properties. Any remedy for the collection of taxes should then be directed against the *"taxable person"*, the same being an action *in personam.* [33]

As such, in case the beneficial use of any portion of the PICC properties has been granted to a taxable person, the personal liability for the real property tax thereon is on such taxable person at the time of the accrual of the said tax, and **not** on BSP.

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[33] *Philippine Heart Center vs. The Local Government of Quezon City, et al.*, supra.

In *Herarc Realty Corporation vs. The Provincial Treasurer of Batangas, et al.,*[34] the Supreme Court specified as to whom personal liability for the real property tax is vested, to wit:

> "xxx. The personal liability for the tax delinquency is generally on whoever is the owner of the real property at the time the tax accrues. This is a necessary consequence that proceeds from the fact of ownership. **Nonetheless, where the tax liability is imposed on the beneficial use of the real property, such as <u>those owned but leased to private persons or entities by the government</u>,** or when the assessment is made on the basis of the actual use thereof, **<u>the personal liability is on any person who has such beneficial</u>** or actual **<u>use at the time of the accrual of the tax</u>. Beneficial use means that the person or entity has the *use and possession* of the property.** Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof." *(Emphases added)*

Moreover, in *Philippine Heart Center vs. The Local Government of Quezon City, et al.,*[35] the Supreme Court held:

> "Respondents, nevertheless, contend that the eleven (11) properties of the PHC in Quezon City are subject to real property tax since the PHC granted the beneficial use of these properties to commercial establishments such as Globe Telecom, Inc., Jollibee Foods Corporation, Course Development, Inc. and Proheart Food Corp.
>
> **On this score, respondents' argument is meritorious.**
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> To reiterate, Section 234(a) of RA 7160 exempts real property owned by the Republic from real property taxes **except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.** Thus, the Court has invariably held that **a government instrumentality, though vested with corporate powers, are exempt from real property tax**[,] **<u>but the exemption shall not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested</u>.**
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> In *Lung Center of the Philippines v. Quezon City,*[36] the Court held that the portions of the land leased to private entities as well as those parts of the hospital leased to

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[34] G.R. No. 210736, September 5, 2018.
[35] G.R. No. 225409, March 11, 2020.
[36] 477 Phil. 141, 160 (2004).

> private individuals are not exempt from real property taxes. On the other hand, the portions of the land occupied by the hospital and portions of the hospital used for its patients, whether paying or non-paying, are exempt.
>
> In *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila,*[37] the Court nullified the real property tax assessments issued by the City of Manila to the Government Service Insurance System, **except the assessment pertaining to the leased Katigbak property served on the Manila Hotel Corporation as lessee which has actual and beneficial use thereof.**
>
> In *PFDA v. Central Board of Assessment Appeals,*[38] the Court declared **void** all the real property tax assessments by the City of Lucena on the Lucena Fishing Port Complex **except for the portions that the Philippine Fisheries Development Authority has leased to private parties.**
>
> In *Metropolitan Waterworks and Sewerage System (MWSS) v. Local Government of Quezon* [39] the Court declared the real properties of the MWSS exempt from the real property taxes imposed by the Quezon City Government. It also nullified all the real estate tax assessments, including the final notices of real estate tax delinquencies, issued on the real properties of the Metropolitan Waterworks and Sewerage System in Quezon City **except for the portions that were alleged and proven to have been leased to private parties**." *(Emphases and underscoring added)*

Based on the foregoing, it is clear that the real property tax exemption of a government instrumentality, such as BSP, shall not extend to taxable private entities to whom the beneficial use of the its properties has been vested, such as by way of lease. As a consequence of such beneficial use, the liability for the real property tax shall pertain to the taxable person or entity to whom the same has been granted, such as the lessee of the subject real property.

In this case, it is established that certain portions of the PICC properties are/were leased to certain taxable persons or entities,[40] to wit:

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[37] 623 Phil. 964 (2009).
[38] 653 Phil. 328 (2010).
[39] G.R. No. 194388, November 7, 2018.
[40] Refer to Annex "V", *Petition for Review*, EB Docket (CTA EB No. 2205) – Vol. 1, pp. 304 to 354.

Tenants	Duration of Lease Contract
Mindanao Development Authority	March 1, 2018 to February 28, 2019
Globe Telecom, Inc.	January 25, 2014 to January 24, 2024
Globe Telecom, Inc.	June 20, 2015 to June 19, 2025
Smart Communications, Inc.	January 1, 2017 to December 31, 2017
Metro Parking Management (Philippines), Inc.	April 25, 2017 to April 24, 2019
National Privacy Commission	December 1, 2017 to December 1, 2018
Securities and Exchange Commission	April 1, 2016 to March 31, 2019
Via Mare Corporation	April 24, 2016 to April 23, 2019
Professional Regulation Commission	For LC 1: December 1, 2018 to November 30, 2019
Professional Regulation Commission	For LC 2-4: December 17, 2018 to December 16, 2019

Thus, by virtue of the lease contracts entered into by the Philippine International Convention Center, Inc. (PICC, Inc.), on behalf of BSP, with the foregoing tenants, the beneficial use of the respective leased portions of the PICC properties were granted to the said tenants. Correspondingly, the said tenants are responsible for the payment of the real property taxes due on the said leased portions. As a corollary, the CBAA should not have absolutely denied the alternative prayer of the BSP for the declaration of its real property tax exemption, since the beneficial use of the entire subject PICC properties has not been granted to taxable persons, but only certain portions thereof.

In any case, Section 206 of the LGC of 1991 is significant, and it reads:

> "SEC. 206. *Proof of Exemption of Real Property from Taxation.* – Every person by or for whom real property is declared, **who shall claim tax exemption for such property** under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, bylaws, contracts, affidavits, certifications and mortgage deeds, and similar documents.
>
> **If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.**" *(Emphases added)*

The foregoing provision categorically provides that every person by or for whom real property is declared, who shall claim exemption from payment of real property taxes imposed against said property, shall file with the provincial, city or municipal assessor sufficient documentary evidence in support of such claim. The burden of proving exemption from local taxation is upon whom the subject real property is declared. By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim.[41]

Considering that there is no indication that BSP has complied with the 30-day period under Section 206 of the LGC of 1997 in the submission of sufficient documentary evidence to prove its real property tax exemption, the City Assessor of Pasay was initially justified in issuing the pertinent Tax Declarations, classifying the PICC properties as "commercial", in the name of BSP. However, since the real property tax exemption of the BSP, a government instrumentality, being the owner of the PICC properties, and insofar as or to the extent that the beneficial use of the portions thereof is *not* granted to a taxable person, has been established in this case, the City Assessor is duty bound to drop the said portions from the assessment roll.

As a corollary, the portions of the PICC properties, the beneficial use of which has been granted to taxable persons, by virtue of the lease contracts entered into by the PICC, Inc. (on behalf of BSP), are hereby declared as taxable, and the corresponding real property tax which has accrued thereon must be assessed in the name of, and collected from, the said taxable persons or tenants of BSP.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* filed by BSP in CTA EB No. 2201 is **PARTIALLY GRANTED**; while the *Petition for Review* filed by the City Assessor of Pasay in CTA EB No. 2205 is **DENIED**, for lack of merit.

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[41] *National Power Corporation vs. The Provincial Treasurer of Benguet, et al.*, G.R. No. 209303, November 14, 2016.

Accordingly, the CBAA's *Decision* dated July 1, 2019 and Resolution dated November 8, 2019 of the CBAA in CBAA Case No. L-138-2017 are **REVERSED** and **SET ASIDE**.

The PICC properties of the BSP are declared **EXEMPT** from the real property tax imposed by the City of Pasay, ***except*** for the portions thereof leased to taxable persons or entities, pursuant to Section 234(a) of the LGC of 1991. Such being the case, any Tax Declaration or real property tax assessment issued by the City Assessor of Pasay inconsistent with the said real property tax exemption of BSP is deemed **INVALID**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(With Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were 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

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

- versus -

HON. FERNANDO M. FANDIÑO, in his capacity as City Assessor, Pasay City, LOCAL BOARD OF ASSESSMENT APPEALS OF PASAY CITY, and CENTRAL BOARD OF ASSESSMENT APPEALS,
Respondents.

CTA EB No. 2201
(CBAA Case No. L-138-2017
LBTAA Case No. 013-6)

x---x

HON. FERNANDO M. FANDIÑO, in his capacity as City Assessor, Pasay City,
Petitioner,

- versus -

BANGKO SENTRAL NG PILIPINAS,
Respondent.

CTA EB No. 2205
(CBAA Case No. L-138-2017
LBTAA Case No. 013-6)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAY 18 2021 3:15pm

x---x

SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the decision partially granting Bangko Sentral ng Pilipinas' (**BSP's**) Petition for Review. However, in regard to the real property tax (**RPT**) exemption of BSP's properties under Section 234(a)[1] of Republic Act (**RA**) No. 7160 or the Local Government Code (**LGC**) of 1991[2], I herein underscore the basis of my concurrence.

In the *ponencia*, it was ruled that BSP's real properties located at the Cultural Center of the Philippines (**CCP**) Complex, Pasay City (**PICC properties**) are exempt from RPT, except when the beneficial use thereof has been granted to a taxable person for consideration or otherwise, pursuant to Section 234(a) of the LGC of 1991. Such RPT exemption is anchored on BSP's ownership over its real properties, and not on the usage thereof. In which case, so long as the beneficial use of such real properties is not granted to a taxable person, the same real properties are exempt from RPT under the said provision.

On this score, I forward a different disquisition below.

The Supreme Court has consistently identified BSP as a government instrumentality vested with corporate powers.[3] However, I am of the opinion that BSP's personality as a government instrumentality does not automatically render it covered by the general RPT exemption under Section 234(a) of the LGC of 1991. In determining whether BSP is entitled to any form of tax exemption, there is a need to go over the provisions of its charter, RA 7653 or the New Central Bank Act (**NCBA**), as amended by RA 11211[4], for any specific tax exemption before invoking the general tax exemption under the LGC of 1991.

A government instrumentality can have different tax exemption sources, one of which is the LGC of 1991 and another is its legislative charter. While a government instrumentality is generally exempt from RPT under the LGC of 1991,

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[1] **SEC. 234.** *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:
(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person[.]

[2] AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991.

[3] *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, G.R. No. 205925, 20 June 2018; *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu and Elena T. Pacaldo*, G.R. No. 181756, 15 June 2015; *Republic of the Philippines v. City of Parañaque*, G.R. No. 191109, 18 July 2012; *Manila International Airport Authority v. Court of Appeals, et al.*, G.R. No. 155650, 20 July 2006.

[4] AN ACT AMENDING REPUBLIC ACT NUMBER 7653, OTHERWISE KNOWN AS "THE NEW CENTRAL BANK ACT," AND FOR OTHER PURPOSES.

Congress may grant or withhold such tax exemption in subsequent legislation.[5] Certainly, Section 133(o)[6] of the LGC of 1991 is not an absolute prohibition on the power of local government units (**LGUs**) to tax the national government, its agencies and instrumentalities.[7]

Section 133(o) of the LGC of 1991 states that, unless otherwise provided therein, the exercise of taxing powers of LGUs shall not extend to levy of taxes, fees or charges of any kind on government instrumentalities. However, a combined reading of Sections 205(d)[8] and 234(a)[9] of the LGC of 1991 also provides for removal of the exemption to government instrumentalities when beneficial use of a real property owned by a government instrumentality is granted to a taxable person. Stated differently, when beneficial use of a real property owned by a government instrumentality is granted to a taxable person, then the taxable person is not exempted from paying RPT on such property. This is precisely the doctrine used in the *ponencia* when it concluded that BSP's PICC properties were exempt from RPT except for the portions thereof leased to taxable persons or entities.

On the other hand, a perusal of BSP's charter or the NCBA reveals that, prior to the amendment in 2019, BSP was granted a five-year exemption from RPT under Section 125 thereof, *viz*:

> ...
>
> **SECTION 125.** *Tax Exemptions.* — **The *Bangko Sentral* shall be exempt for a period of five (5) years from the approval of this Act from all national, provincial, municipal and city taxes, fees, charges and assessments.**
>
> **The exemption authorized in the preceding paragraph of this section shall apply to all property of the *Bangko Sentral***, to the resources, receipts, expenditures, profits and income of the *Bangko Sentral*, as well as to all contracts, deeds, documents and transactions related to the conduct of the business of the *Bangko Sentral*: Provided, however, That said exemptions shall apply only to such taxes, fees, charges and assessments for which the *Bangko Sentral* itself would otherwise be liable, and shall not apply to taxes, fees, charges, or assessments payable by persons or other entities doing business with the *Bangko Sentral*: Provided, further, That

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5 *Mactan-Cebu International Airport Authority v. Marcos*, G.R. No. 120082, 11 September 1996.

6 **SECTION 133.** *Common Limitations on the Taxing Powers of Local Government Units.* — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

...

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

7 *The City of Davao, et al. v. The Regional Trial Court, et al.*, G.R. No. 127383, 18 August 2005.

8 **SECTION 205.** *Listing of Real Property in the Assessment Rolls.* —

...

(d) Real property owned by the Republic of the Philippines, its 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 the public entity if such property has been acquired or held for resale or lease.

9 Supra at note 1.

> foreign loans and other obligations of the *Bangko Sentral* shall be exempt, both as to principal and interest, from any and all taxes if the payment of such taxes has been assumed by the *Bangko Sentral*.[10]
>
> ...

Additionally, when Section 125 of the NCBA was amended by RA 11211 in 2019, BSP's specific tax exemption now covers only income derived from its governmental functions, as follows:

> ...
>
> **SEC. 125.** *Tax Exemptions.* — **The *Bangko Sentral* shall be exempt from all national, provincial, municipal and city taxes on income derived from its governmental functions**, specifically:
>
> (a) income from its activities or transactions in the exercise of its supervision over the operations of banks and its regulatory and examination powers over non-bank financial institutions performing quasi-banking functions, money service businesses, credit granting businesses and payment system operators; and
>
> (b) income in pursuit of its primary objective to maintain price stability conducive to a balanced and sustainable growth of the economy, and the promotion and maintenance of monetary and financial stability and the convertibility of the peso.
>
> **All other incomes not included in the above enumeration shall be considered as proprietary income and shall be subject to all taxes, charges, fees and assessments.**[11]
>
> ...

It bears emphasis that the NCBA (RA 7653) took effect on 03 July 1993[12] and its amendatory law (RA 11211) on 06 March 2019[13]; both after the effectivity of the LGC of 1991. In this regard, while there is a well-founded basis under the LGC of 1991 to exempt properties owned by BSP for being an instrumentality of the government, the *ponencia*, however, did not consider that perhaps the enactment and passage of the NCBA or BSP's charter superseded the pertinent provisions of the LGC of 1991, particularly Sections 133(o)[14], 232[15], 205(d)[16] and 234(a)[17] on real

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10 Italics in the original text; Emphasis and underscoring supplied.

11 Italics in the original text; Emphasis supplied.

12 **SECTION 138**. *Effectivity Clause.* — [Republic Act (RA) No. 7653] shall take effect fifteen (15) days following its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.
[Since it was published in Malaya and Philippine Times Journal on 18 June 1993 and in the Official Gazette on 09 August 1993, RA 7653 took effect 15 days after 18 June 1993 or on 03 July 1993.]

13 **SECTION 49**. *Effectivity.* — [RA 11211] shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.
[Since it was published in the Manila Bulletin on 19 February 2019 and in the Official Gazette on 25 March 2019, RA 11211 took effect 15 days after 19 February 2019 or on 06 March 2019.]

14 Supra at note 6.

property taxation vis-à-vis properties owned by the Republic or its instrumentalities. Simply put, it is likewise plausible to contend that BSP's general RPT exemption under the LGC of 1991 was deemed withdrawn upon the effectivity of the NCBA that gave a specific RPT exemption to BSP.

In the recent case of *University of the Philippines v. City Treasurer of Quezon City*[18] (**UP**), the Supreme Court ruled that the provisions of the LGC of 1991 on exemptions from RPT were superseded by those of a subsequent special law granting a specific tax exemption in favor of UP which, like BSP, is a government instrumentality, to wit:

> ...
> *Tax Exemption from*
> *the Local Government Code*
>
> One source of UP's exemption from tax comes from its character as a government instrumentality. Section 133 (o) of the Local Government Code states that, unless otherwise provided by the Code, the exercise of taxing powers of the local government units shall not extend to levy of taxes, fees or charges of any kind on government instrumentalities.
>
> However, a combined reading of Sections 205 and 234 of the Local Government Code, previously quoted above, also provides for removal of the exemption to government instrumentalities when beneficial use of a real property owned by a government instrumentality is granted to a taxable person. Stated differently, when beneficial use of a real property owned by a government instrumentality is granted to a taxable person, then the taxable person is not exempted from paying real property tax on such property. This is the doctrine used by the City Assessor and the City Treasurer in the present set of facts. The City Assessor and the City Treasurer concluded that ALI is liable for the real property tax on the land that it leased from UP.
>
> **Republic Act No. 9500, however, gave a specific tax exemption to UP which covers the land subject of the present case. The City Assessor and the City Treasurer overlooked this specific exemption awarded to UP by Republic Act No. 9500.** The legislative authority given to UP by Republic Act No. 9500 is the point where the present case differs from our ruling in National Power Corporation v. Province of Quezon (NPC case) which the BLGF-DOF cited in its letter addressed to Mayor Bautista.
>
> *Tax Exemption from*
> *Republic Act No. 9500*

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15 **SECTION 232**. *Power to Levy Real Property Tax.* — A province or city or a municipality within the Metropolitan Manila Area my levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.

16 Supra at note 8.

17 Supra at note 1.

18 G.R. No. 214044, 19 June 2019.

> It is clear from the timeline above that the date of effectivity of UP's legislative charter lies between the date of effectivity of the lease contract between UP and ALI and the dates of issuance of the Statement of Delinquency and Final Notice of Delinquency from the City Treasurer. Republic Act No. 9500, which took effect in 2008, was not yet enacted when UP and ALI entered into their lease contract in 2006. However, Republic Act No. 9500 was already operative when the City Treasurer issued the Statement of Delinquency and Final Notice of Delinquency to UP in 2014. Republic Act No. 9500 was also operative when the City Assessor issued a Notice of Assessment to ALI in 2012, a Statement of Delinquency to UP North Property Holdings, Inc. in 2012, and a Statement of Delinquency to UP North Property Holdings, Inc. in 2013.
>
> **The enactment and passage of Republic Act No. 9500 in 2008 superseded Sections 205 (d) and 234 (a) of the Local Government Code. Before the passage of Republic Act No. 9500, there was a need to determine who had beneficial use of UP's property before the property may be subjected to real property tax. After the passage of Republic Act No. 9500, there is a need to determine whether UP's property is used for educational purposes or in support thereof before the property may be subjected to real property tax.**[19]
>
> ...

Applying by analogy the *UP* case to the present case, it can be said that, before the passage of the NCBA, there was a need to determine who had beneficial use of BSP's PICC properties before such properties may be subjected to RPT. After the passage of the NCBA, however, the RPT exemption applicable to BSP's PICC properties, irrespective of whether beneficial use was granted for consideration or otherwise to a taxable person, had become limited to five (5) years (which ended on 14 June 1998 from approval of the NCBA on 14 June 1993). What happens then after the expiration of the specific legislated tax exemption in favor of BSP under the NCBA?

As provided in Section 125 of the NCBA above, the five-year tax exemption shall apply to BSP's properties. The inclusion of the phrase "shall apply to all property" suggests that Congress intended to exempt BSP from the payment of RPT but apparently for five (5) years only. Nevertheless, the NCBA, as amended, does not expressly provide that BSP is thereupon subject to or no longer exempt from tax. As such, it would be too much of a stretch to construe that Congress intended to completely withdraw BSP's tax exemption moving forward in providing for a five-year limitation.

With the expiration of the aforementioned specific legislated tax exemption and bearing in mind that tax exemption is construed liberally in favor of government instrumentalities, it thus becomes appropriate to invoke the general RPT exemption under the LGC of 1991 owing to BSP's character as a government instrumentality. In *Manila International Airport Authority v. Court of Appeals, et*

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[19] Citations omitted and emphasis supplied.

al.[20], the Supreme Court elucidated on the rationale behind the exemption from local taxes of the national government and its agencies and instrumentalities, thus:

> ...
> Section 133(o) recognizes the basic principle that local governments cannot tax the national government, which historically merely delegated to local governments the power to tax. While the 1987 Constitution now includes taxation as one of the powers of local governments, local governments may only exercise such power "subject to such guidelines and limitations as the Congress may provide."
>
> When local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments. The rule is that a tax is never presumed and there must be clear language in the law imposing the tax. Any doubt whether a person, article or activity is taxable is resolved against taxation. This rule applies with greater force when local governments seek to tax national government instrumentalities.
>
> Another rule is that a tax exemption is strictly construed against the taxpayer claiming the exemption. However, when Congress grants an exemption to a national government instrumentality from local taxation, such exemption is construed liberally in favor of the national government instrumentality. As this Court declared in ***Maceda v. Macaraig, Jr.***:
>
> > The reason for the rule does not apply in the case of exemptions running to the benefit of the government itself or its agencies. In such case the practical effect of an exemption is merely to reduce the amount of money that has to be handled by government in the course of its operations. For these reasons, provisions granting exemptions to government agencies may be construed liberally, in favor of non tax-liability of such agencies.
>
> **There is, moreover, no point in national and local governments taxing each other, unless a sound and compelling policy requires such transfer of public funds from one government pocket to another.**
>
> There is also no reason for local governments to tax national government instrumentalities for rendering essential public services to inhabitants of local governments. **<u>The only exception is when the legislature clearly intended to tax government instrumentalities for the delivery of essential public services for sound and compelling policy considerations. There must be express language in the law empowering local governments to tax national government instrumentalities. Any doubt whether such power exists is resolved against local governments.</u>**

[20] G.R. No. 155650, 20 July 2006.

> Thus, Section 133 of the Local Government Code states that "**unless otherwise provided**" in the Code, local governments cannot tax national government instrumentalities.[21]
>
> ...

Thus, in the absence of an express language in the NCBA as well as in the amendatory law empowering LGUs to tax BSP, the City of Pasay cannot invoke its power to impose RPT and thus, any doubt whether BSP's properties are taxable must be resolved against taxation. Despite the expiration of the aforementioned specific legislated tax exemption granted to BSP under its charter, the general RPT exemption under Section 234(a)[22] of the LGC of 1991, which covers government instrumentalities, should be appreciated in favor of declaring BSP's PICC properties exempt from RPT, except for the portions thereof leased to taxable persons or entities.

With the foregoing, I vote to **PARTIALLY GRANT** the instant Petition for Review filed by the BSP in CTA EB No. 2201 and **DENY** the Petition for Review filed by the City Assessor of Pasay in CTA EB No. 2205.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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21 Citations omitted; Italics and emphasis in the original text; Emphasis and underscoring supplied.
22 Supra at note 1.