REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

NATIONAL TRANSMISSION CORPORATION,
Petitioner,

CTA AC NO. 165

- versus -

Members:
Bautista, Chairperson,
Fabon-Victorino, and
Ringpis-Liban, JJ.

CITY OF QUEZON, represented by its MAYOR, HON. FELICIANO BELMONTE, JR. and VICTOR B. ENDRIGA, Ph. D., in his capacity as CITY TREASURER,
Respondents.

Promulgated:
MAY 05 2017
3:10 p.m.

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R E S O L U T I O N

BAUTISTA, J:

For resolution is public respondents' ("respondents") Motion for Reconsideration ("Motion") filed by registered mail on March 22, 2017; with petitioner's Comment (On Respondent's 21 March 2017 Motion for Reconsideration) ("Comment") filed on April 18, 2017.

On February 28, 2017, the Court promulgated a Decision[1] ("Assailed Decision"), the dispositive portion of which states:[2]

> **WHEREFORE,** premises considered, the Petition for Review is hereby **GRANTED**. The January 23, 2015 Decision and the September 18, 2015 Order of the RTC, Branch 217 of Quezon City are hereby **SET ASIDE**. Accordingly, let the case be **REMANDED** to RTC Branch 217 of Quezon City for adjudication on the merits.

SO ORDERED.

In their Motion, respondents allege that the Regional Trial Court ("RTC") correctly applied the provisions of *Presidential Decree No. 242 ("PD 242)*. Respondents aver that the framers of the *1991 Local Government Code ("1991 LGC")* knew of the existence of *PD 242;* that if they meant that both laws cannot stand together, then they would have specifically repealed the latter law; and that *PD 242* is a good law which should be complied with.

Respondents also insists the importance of exhaustion of administrative remedies; and that for failure of petitioner to comply with *PD 242*, the RTC should not be faulted in declaring that the filing of the case before it is premature.

In its Comment, petitioner counter-argues that respondents' Motion is a mere rehash, if not reiteration, of its arguments and submissions, which have amply been addressed by the Court; that other than the arguments already judiciously considered and squarely passed upon by the Court, respondents failed to advance any compelling reason for the modification, much less reversal, of the Assailed Decision.

Petitioner asserts that *PD 242* has already been amended by *Executive Order No. 292 ("EO 292")* or the *1987 Administrative Code*; that *Book IV, Chapter IV, Section 66 of EO 292* clearly states that dispute settlements provided therein between or among government departments, bureaus, offices, agencies, instrumentalities and government-owned and controlled corporations shall not apply to dispute involving Congress, the Supreme Court, the Constitutional Commissions and local governments; and that Quezon City, being a local government unit, the administrative dispute resolution provided under *PD 242* will not apply to it.

The Ruling of the Court

The Court finds no new matters or arguments which were not considered and passed upon in the Assailed Decision. Respondents failed to raise any new or substantial matter, or any compelling reason to justify the reversal or modification of the Court's findings in the Assailed Decision. Consequently, the Court finds respondents' Motion devoid of merit.

The controversy is rooted from the inconsistency of *Section 1 of PD 242*[3] and *Section 195 of the 1991 LGC*, which are immediately quoted below:

> Section 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree.

> SEC. 195. *Protest of Assessment.* – When the local treasurer or his duly authorized representative finds that the correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty-day (60) period prescribed herein within which to appeal with the court of competent jurisdiction, otherwise the assessment becomes conclusive and unappealable.

To reconcile both laws, the principle of *lex specialis derogant generali* is instructive. In the most recent case of *Provincial Assessor of*

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[3] Prescribing the Procedure for Administrative Settlement or Adjudication of Disputes, Claims

Agusan del Sur v. Filipinas Palm Oil Plantation, Inc.[4], the Supreme Court, citing the case of *Manila Electric Company v. City Assessor*[5], held as follows:

> Section 199 (o) of the Local Government prevails over Article 415 (5) of the Civil Code. In *Manila Electric Company*:
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> As between the Civil Code, a general law governing property and property relations, and the Local Government Code, a special law granting local government units the power to impose real property tax, then the latter shall prevail. As the Court pronounced in *Disomangcop v. The Secretary of the Department of Public Works and Highways Simeon A. Datumanong*:
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>> It is a finely-imbedded principle in statutory construction that a special provision or law prevails over a general one. *Lex specialis derogant generali.* As this Court expressed in the case of Leveriza v. Intermediate Appellate Court, "another basic principle of statutory construction mandates that general legislation must give way to special legislation on the same subject, and generally be so interpreted as to embrace only cases in which the special provisions are not applicable, that specific statute prevails over a general statute and that where two statutes are of equal theoretical application to a particular case, the one designed therefor specially should prevail."
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> The Court also very clearly explicated in *Vinzons-Chato v. Fortune Tobacco Corporation* that:
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>> A general law and a special law on the same subject are statutes in *pari materia* and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.

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[4] G.R. No. 183416, October 5, 2016

> <u>The circumstance that the special law is passed before or after the general act does not change the principle. Where the special law is later, it will be regarded as an exception to, or a qualification of, the prior general act; and where the general act is later, the special statute will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication.</u>[6]

PD 242 requires settlement of disputes at the administrative level, *i.e.*, raised to the Secretary of Justice, Solicitor General, or the Government Corporate Counsel, as the case may be. On the other hand, *Section 195 of the 1991 LGC* allows taxpayers to bring the matter immediately to the trial courts within thirty (30) days from receipt of the denial, or from the lapse of the sixty (60)-day period, otherwise, the assessment becomes final and unappealable. Where there are two (2) statutes that may apply to a particular case, that which was specially designed for the said case must prevail over the other.[7] *Section 195 of the 1991 LGC* specifically applies to protest and appeal of local tax assessments. Under the foregoing, *Section 195 of the 1991 LGC* shall prevail.

The Court cannot stress enough that the remedy of a taxpayer against a local tax assessment is found in *Section 195 of the 1991 LGC*, particularly, that should the taxpayers' protest be denied by the local treasurer, they have thirty (30) days from receipt of such notice; or, in case of inaction, from the lapse of sixty (60) days; to appeal the assessment with the court of competent jurisdiction. In this relation, the Supreme Court, in the case of *Yamane v. BA Lepanto Condominium Corporation*[8], clarified that the "appeal" referred to in *Section 195 of the 1991 LGC* contemplates an action in which the court of competent jurisdiction takes initial judicial cognizance of a case assailing the assessment issued by the local treasurer.[9]

Time and again, the Supreme Court has emphasized that among the ends to which a motion for reconsideration is addressed is to convince the Court that its ruling is erroneous and improper,

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[6] Underscoring ours.
[7] *Lapid v. Court of Appeals, et. al.*, G.R. No. 142261, June 28, 2000, 334 SCRA 738.
[8] G.R. No. 154993, October 25, 2005, 474 SCRA 258.

contrary to laws or the evidence.[10] Thus, having failed to do so, the motion must necessarily fail.

WHEREFORE, premises considered, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit. Accordingly, the Assailed Decision dated February 28, 2017 is hereby **AFFIRMED** and **UPHELD.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen R. L.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice