MANILA RAILROAD COMPANY,
Petitioner,

-versus-

C.T.A. CASE No. 666

THE BOARD OF ASSESSMENT
APPEALS OF DAGUPAN CITY,
Respondent.

x- - - - - - - - - - - - -x

D E C I S I O N

This is an appeal from the decision of the Board of Assessment Appeals of Dagupan City dated February 25, 1959 denying petitioner's appeal from the decision of the City Assessor of July 8, 1958, assessing against and demanding from it real estate taxes on its real properties for the years 1955 to 1957, inclusive of surcharges, in the amount of ₱3,849.59.

Petitioner is a government owned and controlled corporation with principal office in Manila, the main purpose of which, among others, is to operate railroads, tramways, and other kinds of land transportation. It owns eleven parcels of land located in Dagupan City, designated as lots 357, 358, 367, 3207, 3208, 3212, 4193, 6369, 6444, 8713 and 8942.

Of the above lots, lots 358, 367, 3207, 3208, 3212, 8713 and 8942 were assessed in 1955 by the City Assessor of Dagupan City for real estate tax purposes;

while lots 357, 4193, 6369 and 6444 were assessed in 1956 for the same purposes.

Lot 367 consists of a total area of 69,335 square meters. Of this total area, 11,306.63 square meters were leased in 1955 to Goyena Lumber Company, Caridad Lumber Company, Dalmacio Rodriguez and Consuelo Bernabe, individually leasing 1,103.63, 5,883, 2,800 and 1,520 square meters, respectively. (Exhs. A to F; pp. 33-36, 38, 45 t.s.n.). The remaining portion, which is 58,028.37 square meters, was actually used for its various installations such as the railroad station building, bodega, office and living quarters of its division engineer, living quarters of its personnel, water tank, fuel installations, garage and shop of the Luzon Bus Line, which is its land transportation unit (Exhs. G-1 to G-10), rails and railroad tracks (pp. 11-12, t.s.n.).

In that same year 1955, the rest of the lots involved in this case were not leased but some were occupied by squatters and were not paying any rental to petitioner. (pp. 17-18, t.s.n.).

On July 8, 1958, the City Treasurer of Dagupan City demanded payment of real estate taxes in the amount of ₱3,849.59, inclusive of surcharges, on the above lots for the years 1955 to 1957. (see Exhs. H, H-1 to H-12).

ny

On August 8, 1958, petitioner filed its request for reconsideration of the assessment asserting that its properties are exempt under its charter, Act No. 1510. (Exh. J). However, petitioner's request was denied by the City Assessor of Dagupan City. Upon receipt on October 22, 1958 of the denial, petitioner appealed to the Board of Assessment Appeals of Dagupan City, which rendered its decision on February 25, 1958, denying the appeal.

From this decision petitioner appealed to this Court. The sole issue raised relates to the taxability of the lots in question owned by petitioner.

It is contended by petitioner that with the exception only of a portion of lot 367 which was leased, the rest of said lot, which was used for its corporate purposes, and the other lots involved herein which were occupied by squatters, are not subject to real estate tax. On the other hand, respondent, relying on the strength of the decision in the case of Manila Railroad Company vs. City of Dagupan, et al. (G.R. No. L-16596) promulgated on April 26, 1961, insisted upon the taxability of all the lots in question.

We are of the opinion that, with the exception of that portion of lot 367 on which stands the various installations of petitioner, with an area of 58,028.37 square meters, which ground area was reasonably needed and actually devoted to its corporate use, the remaining portion of this lot with an area of 11,306.63 square meters which was leased in 1955 to private parties, is subject to realty taxes. (Manila Railroad Company vs. City of Dagupan, et al., G.R. No. L-16596, April 26, 1961.)

As to the remaining lots involved here, some of which were occupied by squatters as of the years when these lots were assessed either in 1955 or 1956, we believe that they are equally liable for real estate tax. The fact that some of these lots were occupied by squatters, and the others were obviously vacant, is the best proof that said real properties of petitioner are not necessary or useful for the construction, maintenance and operation of its railway or any of its undertakings.

It must be emphasized that exemption from general taxation is granted in exchange for a public benefit; that exemption of properties from taxation are strictly construed, the rule being that every person must bear his share in the expenses of the government (Castle Bros, Wolf & Sons vs. Mcloy, 21 Phil. 300); and that exemption from taxation must be shown in words too plain and clear to be mistaken (Phil. Is. vs. El Monte de Piedad, 35 Phil. 42-43). In order that real properties of petitioner may be exempt from taxation, such properties must be used for the operation of its railroads, tramways and other kinds of land transportation. Actual use, therefore, is the test to determine whether its properties are exempt or not. Moreover, such use must be for its corporate purposes. (County of Ramsey v. Chicago, M. & St. P. Ry. Co. (24 NW 313) cited in Opinion No. 293, s. 1956 of the Secretary of Justice, Exh. 5; Opinion No. 186, s. 1957 of the Secretary of Justice, Exh. 6). Therefore, the lots which were not used for petitioner's corporate purposes are not entitled to exemption under its charter (Act 1510).

Petitioner contends that the rentals of portions of lot 367 were included in the gross earnings on which it paid the franchise tax so that it should no longer be required to pay the realty tax. The payment of the franchise tax on rental income does not justify exemption from taxation of the property which produced such rental income. (See Op. No. 186, s. of 1957, Sec. of Justice, supra.)

In sum, we find and so hold that petitioner is liable for realty tax on that portion of Lot 367 which it caused to be leased to private parties for the years 1955 to 1957; that petitioner is liable for realty tax on all the other lots involved in this

232

case which were assessed either in 1955 or 1956.

IN VIEW OF THE FOREGOING, Tax Declaration No. 51019 (see Exh. H-2) which pertains to the assessment of lot 367 of petitioner should be amended so as to exclude from the assessment the portion thereof with an area of 58,028.37 square meters which is exempt from taxation. In all other respects, the decision appealed from is hereby affirmed. Without pronouncement as to costs.

SO ORDERED.

Manila, August 30, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge