

**REPUBLIC OF THE PHILIPPINES**  
**Court of Tax Appeals**  
**QUEZON CITY**

**SPECIAL SECOND DIVISION**

**NATIONAL POWER CORPORATION,**      **C.T.A. AC NO. 57**  
Petitioner,

- versus -

Members:

**CASTAÑEDA, JR.,** *Chairperson*  
**UY, and**  
**PALANCA-ENRIQUEZ, JJ.**

**THE PROVINCIAL GOVERNMENT OF**  
**BUKIDNON AND LUIS L. ORO, in his**  
**capacity as PROVINCIAL**  
**TREASURER OF BUKIDNON,**  
Respondents.

Promulgated:

AUG 10 2010

10:35 A.M.

X ----- X

**DECISION**

**UY, J.:**

The instant Petition for Review seeks to set aside the following Orders issued by Branch 9 of the Regional Trial Court of the City of Malaybalay in Civil Case No. 3620-06 entitled "*National Power Corporation, petitioner, vs. Provincial Government of Bukidnon and Luis L. Oro in his Capacity as Provincial Treasurer, respondents*, in a Petition for the Nullification of Assessment of Franchise Tax With Prayer for TRO/Injunction:

- 1) Order dated May 18, 2007<sup>1</sup>, dismissing petitioner's Petition filed against respondents for the nullification of the latter's assessment of franchise tax; and

<sup>1</sup> Annex "A", Petition for Review; Docket, p. 19.



- 2) Order dated March 3, 2009<sup>2</sup>, denying petitioner's Motion for Reconsideration filed on June 23, 2007 which seeks the reconsideration of the assailed Order dated May 18, 2007.

### THE FACTS

The factual antecedents as found by the lower court and as culled from the records of this case are as follows:

Petitioner National Power Corporation (NPC) is a government-owned and controlled corporation created and existing under and by virtue of Republic Act (RA) No. 6395, as amended, with principal office address at the NPC-Office Building Complex, Quezon Avenue, corner Agham Road, Diliman, Quezon City.<sup>3</sup>

On the other hand, respondents are the Province of Bukidnon and Luis L. Oro, in his official capacity as the Provincial Treasurer of the Province of Bukidnon.<sup>4</sup>

On July 13, 2006, respondents sent a Letter/Notice of Assessment to petitioner through its Plant Manager in Kiuntotod, Camp 1, Maramag, Bukidnon, demanding the payment of franchise tax for the year 2002 and subsequent years until the issuance of the letter on July 13, 2006.<sup>5</sup>

In response to respondents' Letter, petitioner sent a Letter-reply dated August 31, 2006, alleging that the passage of the EPIRA Law on June 26, 2001 exempted it from the payment of franchise tax.<sup>6</sup> Thereafter,

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<sup>2</sup> Docket, pp. 20-21.

<sup>3</sup> Petition for Review, p. 3; Docket, p. 3.

<sup>4</sup> Ibid., pp. 3-4.

<sup>5</sup> Docket, p. 28.

<sup>6</sup> Docket, p. 29.



respondents sent another Letter to petitioner dated September 19, 2006 reiterating its demand to pay the franchise tax.<sup>7</sup>

On October 31, 2006, petitioner filed with the Regional Trial Court (RTC) Branch 9 of Malaybalay City, a "Petition (With Prayer or Issuance of Temporary Restraining Order/Preliminary Injunction)"<sup>8</sup> docketed as Civil Case No. 3620-06, praying that a temporary restraining order/preliminary injunction be issued enjoining the Provincial Treasurer from implementing and enforcing the Notice of Assessment dated July 13, 2006 and that the said Notice of Assessment as well as the denial of NPC's protest dated September 19, 2006 be declared as null and void for lack of legal basis.

Respondents filed their Answer on December 11, 2006,<sup>9</sup> vehemently denying that the National Power Corporation (NPC) is exempt from the payment of Franchise Tax as the EPIRA Law did not repeal Section 137 of the Local Government Code (LGC); that no protest shall be entertained unless the taxpayer first pays the tax; that non-exhaustion of administrative remedies is a ground for the dismissal of Civil Case No. 3620-06 on the ground of prematurity; and that there is no injunction clause in the National Internal Revenue Code (NIRC) of 1997 to enjoin or restrain the collection of any national internal revenue tax, fee or charge, or any local tax, fee or charge.

Subsequently, the RTC issued the assailed Order dated May 18, 2007, quoted hereunder as follows:



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<sup>7</sup> Docket, p. 30.

<sup>8</sup> Docket, pp. 31-39.

<sup>9</sup> Docket, p. 40.

**"ORDER**

Records would show that Petitioner failed to make any reply to the answer of the respondent(s), dated December 4, 2006. It also failed to subsequently appear in any of the proceedings in this case.

As aptly argued by the Respondents, there is nothing in R.A. 9136 otherwise known as the EPIRA law that expressly repealed Section 137 of the Local Government Code.

The foregoing considered and further taking into account Section 218 of the National Internal Revenue Code of 1997, the Court orders the DISMISSAL of the Petition for Nullification of Assessment of Franchise (Tax) against the Provincial Government of Bukidnon.

**IT IS SO ORDERED.**

Done this 18<sup>th</sup> day of May 2007 in the City of Malaybalay.

(Signed)  
**EVELYN GAMOTIN NERY**  
Presiding Judge-Designate"<sup>10</sup>

Petitioner filed a Motion for Reconsideration<sup>11</sup> praying that the aforequoted Order of the RTC be set aside. Acting on herein petitioner's "Motion for Reconsideration", the court *a quo* issued the Order dated March 3, 2009 denying said motion, pertinent portion of which reads:

**"ORDER**

xxx    xxx    xxx

In the assailed Order, the Court ruled that there is nothing in R.A. 9136 otherwise known as the EPIRA Law that expressly repealed Section 137 of the Local Government Code which gives authority to the Province of Bukidnon to impose franchise tax on business enjoying a franchise within its territorial jurisdiction.

Section 137 of the Local Government Code states:

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<sup>10</sup> Docket, p. 19.

<sup>11</sup> Docket, p. 22.



*'Section 137 – Franchise Tax. – Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on business enjoying a franchise, at the rate not exceeding fifty percent (50%) of one (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.*

xxx'

From the afore-quoted provision it is crystal clear that the Province of Bukidnon has the authority to collect franchise tax from any business within its territorial jurisdiction.

Likewise, the tax exemptions enjoyed by government-owned or controlled corporations has been withdrawn expressly pursuant to Section 193 of the Local Government Code (467 SCRA 280 City of Davao vs. RTC, Branch XII, Davao City). Besides, laws granting exemption from tax are construed 'strictissimi juris' against the taxpayer and liberally in favor of the taxing power (433 SCRA 119 Lung Center of the Philippines vs. Quezon City). The tax exemption must be expressed in the statute in clear language that leaves no doubt of the intention of the legislature to grant such exemption (467 SCRA 93 Philippine Long Distance Telephone Company Inc. vs. Province of Laguna). Petitioner fails to cite any provisions in the EPIRA Law that says petitioner is exempted from the payment of franchise tax.

The rule that a special law must prevail over the provisions of a later general law does not apply as the legislative intent to withdraw tax privileges enjoyed under existing laws or charters is apparent from the express provisions of 137 and 193 of the LGC (G.R. No. 143867 March 25, 2003 PLDT vs. City of Davao).

**IN VIEW OF ALL THE FOREGOING**, the Motion for Reconsideration is **DENIED**.

**SO ORDERED.**

Done this 3<sup>rd</sup> day of March 2009 in the City of Malaybalay.

(Signed)  
**BENJAMIN ESTRADA**  
Presiding Judge" <sup>12</sup>



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<sup>12</sup> Docket, pp. 20-21.

To assail the foregoing Orders of the RTC, petitioner filed the instant Petition for Review on May 6, 2009<sup>13</sup> under a procedure analogous to that provided under Rule 43 of the 1997 Rules of Civil Procedure in relation to Rule 8, Section 4 (c) of the Revised Rules of the Court of Tax Appeals and Section 7 (a)(3) of Republic Act (RA) No. 9282.

On June 25, 2009, respondents filed their Comment, reiterating their arguments stated in their Answer filed in Civil Case No. 3620-06 and praying that the petition filed before this Court be dismissed for patent lack of merit.<sup>14</sup>

In the Resolution dated July 1, 2009, this Court granted both parties thirty (30) days from notice within which to file their simultaneous memoranda.<sup>15</sup> On August 10, 2009, petitioner filed its "Manifestation" alleging that it is adopting its Petition for Review as its Memorandum<sup>16</sup>, while respondents also filed their "Manifestation" on September 3, 2009 stating that they are adopting their Comment and Answer as their Memorandum.<sup>17</sup>

In view of the foregoing, this case was deemed submitted for decision in the Resolution dated September 11, 2009<sup>18</sup>.

Hence, this Decision.

### THE ISSUE

Petitioner submits a lone issue for the Court's consideration, to wit:

"WHETHER OR NOT THE TRIAL COURT GRAVELY ERRED WHEN IT HELD THAT PETITIONER IS LIABLE TO PAY FRANCHISE TAX TO THE PROVINCE OF BUKIDNON NOTWITHSTANDING THAT REPUBLIC ACT NO. 9136,

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<sup>13</sup> Docket, pp. 1-13.

<sup>14</sup> Docket, pp. 53-62.

<sup>15</sup> Resolution dated July 6, 2009, Docket, p. 66.

<sup>16</sup> Docket, pp. 68-69.

<sup>17</sup> Docket, pp. 74-75.

<sup>18</sup> Docket, p. 76.



OTHERWISE KNOWN AS THE ELECTRIC POWER  
INDUSTRY REFORM ACT [EPIRA], HAS EFFECTIVELY  
RELIEVED PETITIONER FROM PAYING FRANCHISE TAX.”<sup>19</sup>

### **Petitioner's Arguments**

Petitioner claims that the trial court gravely erred in finding that Republic Act (RA) No. 9136 did not relieve NPC from paying respondent province franchise tax because local government units like respondent province can impose a franchise tax only against those businesses enjoying a “franchise” while all other business which does not enjoy a franchise cannot and should not be imposed a franchise tax.

According to petitioner, by virtue of the passage of RA No. 9136 requiring the transfer of petitioner's transmission functions to National Transmission Corporation (TRANSCO), petitioner is deemed to be engaged only in the generation of electricity and should be considered as a generation company not operating under a special franchise. And since its function is merely to generate electricity, then it is no longer required to secure a special franchise for its operation as mandated under Section 6 of RA No. 9136, and therefore should not be held liable for any payment of franchise tax, which reads:

**“Section 6. Generation Sector.** - Generation of electric power shall be competitive and open.

xxx                      xxx                      xxx

Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a local or national franchise.”

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<sup>19</sup> Issue, Petition for Review, p. 6; Docket, p. 6.



### **Respondents' Counter-arguments**

Respondents counter-argue that RA No. 9136, otherwise known as the EPIRA Law, did not repeal Section 137 of the Local Government Code (LGC) and does not provide for any exemption from payment of franchise tax. Further, respondents emphasize that the grant of a special franchise to petitioner which makes it liable to pay franchise tax, in citing the case of *Napocor vs. City of Cabanatuan*<sup>20</sup>.

Thus, petitioner's failure to pay under protest the amount of taxes assessed would allegedly be tantamount to failure of petitioner to exhaust administrative remedies making the same detrimental to the instant petition.

Lastly, respondents invoke their immunity from suit and the court's lack of authority to enjoin or restrain the collection of any national revenue tax or local tax, fees or charges.<sup>21</sup>

### **THIS COURT'S RULING**

The petition is bereft of merit.

At the outset, the Court notes that the issue raised in the instant case is not novel. In a number of cases, the Supreme Court has consistently upheld the liability of petitioner to pay franchise tax under the Local Government Code (LGC) of 1991.

The power of the local government units (LGUs) to impose franchise tax is anchored on Section 137 of the LGC which provides:

**"SEC. 137. Franchise Tax. - *Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a***

<sup>20</sup> G.R. No 149110, April 9, 2003.

<sup>21</sup> Docket, pp. 53-62.



**franchise**, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction. In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein." (*Emphasis supplied*)

Pursuant to the above provision, to determine whether petitioner is covered by the franchise tax, the following requisites must concur: (1) that petitioner has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of the respondent city government.<sup>22</sup>

In the case of ***National Power Corporation vs. Province of Isabela***<sup>23</sup>, citing ***National Power Corporation vs. City of Cabanatuan***<sup>24</sup>, the Supreme Court clearly ruled that petitioner may be held liable to pay franchise tax, thus:

***"Petitioner fulfills the first requisite. Commonwealth Act No. 120, as amended by Rep. Act No. 6395, constitutes petitioner's primary and secondary franchises.*** It serves as the petitioner's charter, defining its composition, capitalization, the appointment and the specific duties of its corporate officers, and its corporate life span. As its secondary franchise, Commonwealth Act No. 120, as amended, vests the petitioner [with x x x certain] powers which are not available to ordinary corporations x x x

x x x

x x x

x x x

***Petitioner also fulfills the second requisite. It is operating within the respondent city government's territorial jurisdiction pursuant to the powers granted to it by Commonwealth Act No. 120, as amended.*** x x x

<sup>22</sup> *National Power Corporation vs. City of Cabanatuan*, G.R. No. 149110, April 9, 2003.

<sup>23</sup> G.R. No. 165827, June 16, 2006.

<sup>24</sup> *Supra*.



Petitioner was likewise characterized therein as a private enterprise for profit, on the following ratiocination:

Petitioner was created to 'undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis. Pursuant to this mandate, petitioner generates power and sells electricity in bulk. Certainly, these activities do not partake of the sovereign functions of the government. They are purely private and commercial undertakings, albeit imbued with public interest. The public interest involved in its activities, however, does not distract from the true nature of the petitioner as a commercial enterprise, in the same league with similar public utilities like telephone and telegraph companies, railroad companies, water supply and irrigation companies, gas, coal or light companies, power plants, ice plant among others; all of which are declared by this Court as ministrant or proprietary functions of government aimed at advancing the general interest of society." (*Emphasis supplied*)

Clearly, petitioner is covered by the power of the LGUs to impose a franchise tax to those businesses operating within their jurisdiction.

As regards petitioner's contention that since it is now a mere generation company because its transmission function was already transferred to the National Transmission Corporation (TRANSCO) and therefore is not required to secure a franchise pursuant to Section 6 of RA No. 9136 (EPIRA Law), We find the same bereft of merit.

We look into the pertinent provisions of RA No. 9136, to wit:

**"Section 5. Organization.** - The electric power industry shall be divided into four (4) sectors, namely: generation; transmission; distribution and supply."

**"Section 6. Generation Sector.** - Generation of electric power shall be competitive and open.

xxx

xxx

xxx

Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For



this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a local or national franchise.”

**“Section 8. Creation of the National Transmission Company.** - There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall assume the electrical transmission function of the National Power Corporation, and have the powers and functions hereinafter granted. The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services.”

Although Section 8 of the EPIRA Law provides that TRANSCO shall assume the electrical transmission function of the NPC, We do not agree with petitioner that its remaining business activity is the generation of power, which allegedly does not require national or local franchise pursuant to Section 6 of the EPIRA law. In fact, this assertion is belied in the ruling of the Supreme Court in the case of ***National Power Corporation vs. City of Cabanatuan***<sup>25</sup>, which also involves herein petitioner, wherein the High Court ruled that:

“As its secondary franchise, Commonwealth Act No. 120, as amended, vests the petitioner the following powers which are not available to ordinary corporations, viz:

x x x

x x x

x x x

(e) To conduct investigations and surveys for the development of water power in any part of the Philippines;

(f) To take water from any public stream, river, creek, lake, spring or waterfall in the Philippines, for the purposes specified in this Act; to intercept and divert the flow of waters from lands of riparian owners and from persons owning or interested in waters which are or may be necessary for said purposes, upon payment of just compensation therefor; to alter, straighten, obstruct or increase the flow of water in streams or water channels intersecting or connecting

<sup>25</sup> G.R. No. 149110, April 9, 2003.



therewith or contiguous to its works or any part thereof: Provided, That just compensation shall be paid to any person or persons whose property is, directly or indirectly, adversely affected or damaged thereby;

(g) To construct, operate and maintain power plants, auxiliary plants, dams, reservoirs, pipes, mains, transmission lines, power stations and substations, and other works for the purpose of developing hydraulic power from any river, creek, lake, spring and waterfall in the Philippines and supplying such power to the inhabitants thereof; to acquire, construct, install, maintain, operate, and improve gas, oil, or steam engines, and/or other prime movers, generators and machinery in plants and/or auxiliary plants for the production of electric power; to establish, develop, operate, maintain and administer power and lighting systems for the transmission and utilization of its power generation; to sell electric power in bulk to (1) industrial enterprises, (2) city, municipal or provincial systems and other government institutions, (3) electric cooperatives, (4) franchise holders, and (5) real estate subdivisions x x x;

(h) To acquire, promote, hold, transfer, sell, lease, rent, mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or proper to carry out the purposes for which the Corporation was created: Provided, That in case a right of way is necessary for its transmission lines, easement of right of way shall only be sought: Provided, however, That in case the property itself shall be acquired by purchase, the cost thereof shall be the fair market value at the time of the taking of such property;

(i) To construct works across, or otherwise, any stream, watercourse, canal, ditch, flume, street, avenue, highway or railway of private and public ownership, as the location of said works may require xxx;

(j) To exercise the right of eminent domain for the purpose of this Act in the manner provided by law for instituting condemnation proceedings by the national, provincial and municipal governments;

x x x

x x x

x x x

(m) To cooperate with, and to coordinate its operations with those of the National Electrification Administration and public service entities;



(n) To exercise complete jurisdiction and control over watersheds surrounding the reservoirs of plants and/or projects constructed or proposed to be constructed by the Corporation. Upon determination by the Corporation of the areas required for watersheds for a specific project, the Bureau of Forestry, the Reforestation Administration and the Bureau of Lands shall, upon written advice by the Corporation, forthwith surrender jurisdiction to the Corporation of all areas embraced within the watersheds, subject to existing private rights, the needs of waterworks systems, and the requirements of domestic water supply;

(o) In the prosecution and maintenance of its projects, the Corporation shall adopt measures to prevent environmental pollution and promote the conservation, development and maximum utilization of natural resources xxx."

Apparently, petitioner failed to appreciate the fact that its existence is not based on pure power generation and electrical transmission. The above-enumerated powers of petitioner, by virtue of its secondary franchise, have not been entirely divested to TRANSCO. Moreover, We note that petitioner has not specifically pointed out which of the said powers mentioned in its special franchise under RA No. 6395<sup>26</sup> have been impliedly repealed and withdrawn by the EPIRA Law.

Additionally, Section 2(a) of Part I, Rule 3 of the "Rules and Regulations Implementing RA 9136" categorically provides:

"RULE 3. RESPONSIBILITIES OF THE DOE, ERC, NPC, NEA  
AND PSALM

x x x

x x x

x x x

## **Section 2. Responsibilities of the NPC.**

(a) Pursuant to Section 70 of the Act, ***notwithstanding the divestment and/or Privatization of NPC assets***, IPP contract and spun-off corporations, ***NPC shall remain as a***

<sup>26</sup> "An Act Revising The Charter Of The National Power Corporation" which took effect upon its approval on September 10, 1971.



***National Government-owned and -controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.*** The missionary electrification function shall be funded from the revenues from sales in missionary areas and from the Universal Charge to be collected from all electricity End-users as determined by the ERC." (*Emphasis supplied*)

In this connection thereto, Rule 4 (a) of the same implementing rules and regulations provides:

**"RULE 4. DEFINITION OF TERMS**

As used in these Rules, the following terms shall have the following respective meanings:

x x x

x x x

x x x

ddd) ***'Missionary Electrification'*** refers to the provision of basic electricity service in Unviable Areas with the ultimate aim of bringing the operations in these areas to viability levels;"

Pursuant to the above-cited provisions, petitioner shall remain to be a National Government-owned and controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. Therefore, even with the passage of the EPIRA law, petitioner cannot be considered to be exclusively operating as a generation company.

Moreover, as correctly ruled by the court *a quo* in upholding respondents' arguments, a close reading of the EPIRA law will show that there is nothing in the said law that expressly repealed Section 137 of the



LGC. It being the case, respondents may still require petitioner to pay for franchise taxes as assessed by the Provincial Treasurer of the Province of Bukidnon in a letter dated July 13, 2006.

As a rule, tax exemptions are construed strongly against the claimant. Exemptions must be shown to exist clearly and categorically, and supported by clear legal provisions.<sup>27</sup> It must be emphasized that the claim of the petitioner in the instant case is in the nature of a tax exemption.

And in the case of ***Smart Communications vs. The City Of Davao, represented by Mayor Hon. Rodrigo R. Duterte, and the Sangguniang Panlungsod Of Davao City***<sup>28</sup>, it was ruled as follows:

“Applying the rule of strict construction of laws granting tax exemptions and the rule that doubts are resolved in favor of municipal corporations in interpreting statutory provisions on municipal taxing powers, the Court held that Section 23 of RA 7925 could not be considered as having amended petitioner's franchise so as to entitle it to exemption from the imposition of local franchise taxes.”

Thus, in light of the foregoing jurisprudential guideline, We find no cogent reason to deviate from the general rule that tax exemptions must be construed strictly against the claimant.

Certainly, the power to tax is the most effective instrument to raise needed revenues to finance and support myriad activities of the local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people<sup>29</sup>. The original reasons for the withdrawal of tax

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<sup>27</sup> *Commissioner of Internal Revenue vs. Guerrero*, 21 SCRA 180 (1967).

<sup>28</sup> G.R. No. 155491, July 21, 2009.

<sup>29</sup> *Supra* at 22.



exemption privileges granted to government-owned or controlled corporations and all other units of government were that such privilege resulted in serious tax base erosion and distortions in the tax treatment of similarly situated enterprises.<sup>30</sup>

All the foregoing considered, We find no reversible error committed by the Regional Trial Court of the Province of Bukidnon, Branch 9, that would merit a reversal of the assailed Orders dated May 18, 2007 and March 3, 2009 rendered in Civil Case No. 3620-06.

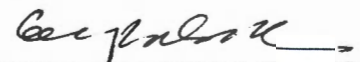
**WHEREFORE**, premises considered, the instant petition is hereby **DENIED** for lack of merit. Accordingly, the assailed Orders of the Regional Trial Court of the Province of Bukidnon, Branch 9, Malaybalay City in Civil Case No. 3620-06 dated May 18, 2007 and March 3, 2009, are hereby **AFFIRMED**.

**SO ORDERED.**

  
**ERLINDA P. UY**  
Associate Justice

WE CONCUR:

*On Leave*  
**JUANITO C. CASTAÑEDA, JR.**  
Associate Justice

  
**OLGA PALANCA-ENRIQUEZ**  
Associate Justice

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<sup>30</sup> *Mactan Cebu International Airport Authority vs. Marcos*, 261 SCRA 667, 690 (1996) citing Cruz, Isagani A., *Constitutional Law* (1991).

### ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
ERLINDA P. UY  
Associate Justice  
Acting Chairperson

### CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Court of Tax Appeals  
Library

  
ERNESTO D. ACOSTA  
Presiding Justice