REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

MUNICIPAL (now CITY) GOVERNMENT OF TAGUIG, MUNICIPAL (now CITY) TREASURER OF TAGUIG, and their duly authorized representatives, *Petitioners,*	**CTA AC NO. 212** (Civil Case No. 67856)
	Members: **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
-versus-	
VETERANS FEDERATION OF THE PHILIPPINES, *Respondent.*	Promulgated: SEP 25 2020 10:56 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review[1] under ***Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")***,[2] asking the Court to reconsider and/or set aside the Decision dated 11 December 2017, as well as, the Order, dated 8 October 2018, of the Regional Trial Court ("RTC") of Pasig City, Branch 155; to issue a new Decision upholding the imposition and assessment of real property tax ("RPT") against the property of respondent; and to dismiss the Petition, dated 28 March 2000, filed by the respondent to declare the Warrant of Levy, dated 18 February 2000, and the Notice of Publication and Auction Sale, dated 20 March 2000, issued by the Municipal (now City) Treasurer (hereinafter referred to as "City Treasurer") null and void.

The Parties

Petitioner Municipality (now City) of Taguig is a political subdivision of the government, existing under and by virtue of Republic Act ("RA") No.

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[1] Petition for Review, Records, pp. 8-97, with annexes.
[2] A.M. No. 05-11-07-CTA, 22 November 2005.

7160, otherwise known as the Local Government Code ("LGC"), RA No. 8487 or the Charter of the City of Taguig, and other laws of the Philippines, with legal personality to sue and be sued. It is represented by its Mayor/Local Chief Executive, which was then held by Hon. Maria Laarni L. Cayetano during the time of the filing of the instant Petition for Review.

Petitioner City Treasurer of Taguig is vested with authority to exercise the functions of his office, including, among others, the implementation of the Revenue Code of the City of Taguig (hereinafter referred to as "Revenue Code") and pertinent provisions of the LGC, the collection and assessment of local taxes, fees and charges within the jurisdiction of Taguig City, as well as the issuance of Warrant of Levy and Notice of Auction. He is represented herein by the Officer-in-Charge ("OIC")-City Treasurer of the City of Taguig, Atty. J. Voltaire L. Enriquez.

Petitioners may be served with pleadings, orders, and other processes of this Court through their counsel, the City Legal Office, with office address at 4th floor, Taguig City Hall, Gen. Luna Street, Tuktukan, Taguig City.

Respondent Veterans Federation of the Philippines ("VFP") is a corporate body created on 18 June 1960 by virtue of RA No. 2640. It may be served with pleadings, orders and other process of this Court through its counsel, the Office of the Government Corporate Counsel, with office address at the 3rd Floor, MWSS Building, Katipunan Road, Balara, Quezon City.

The Facts

The subject matter under contention is a fifty (50) hectare property located at Western Bicutan, Taguig, Metro Manila. The said property has been set aside, pursuant to Proclamation No. 192, to serve as a center for the different activities of Filipino war veterans, including Veterans Rehabilitation, Medicare and Training Center, headquarters for the various veterans organizations, and other allied activities.[3] The property is known as the "Veterans Center".

As culled from the records of this case, the controversy started when respondent received from the City Treasurer, on 23 February 2000, a Warrant of Levy dated 18 February 2000. The Warrant of Levy provided that the Veterans Center was delinquent in the payment of RPT in the total amount of ₱98,953,291.47 covering tax years 1989 up to 1999.[4]

[3] Proclamation No. 192, s. 1967, Reserving for the Veterans Center Site Purposes a Certain Parcel of Land of the Private Domain Situated in the Province of Rizal, Island of Luzon, 4 April 1967.

[4] Warrant of Levy (Exhibit "F"), RTC Records, Vol. 1, p. 533.

In reply, respondent wrote a letter to the City Treasurer, dated 8 March 2000, stating that it is exempt from payment of any and all taxes pursuant to Section 11 of RA No. 2640 and of RA No. 7291.[5]

On 21 March 2000, respondent received a Notice of Publication and Auction Sale, dated 20 March 2000, which indicated that the Veterans Center was included in the List of Delinquent Real Properties which was to be published in the Philippine Daily Inquirer ("PDI") in preparation for its public auction on 24 April 2000 at the ground floor, Office of the City Treasurer between the hours of 2:00 P.M. and 5:00 P.M.[6]

Subsequently, on 28 March 2000, respondent filed the original Petition with the RTC of Pasig against petitioners and PDI, as publisher of the Notice of Auction.[7]

In the Petition, respondent prayed for the RTC to declare the Warrant of Levy, and the Notice of Publication and Auction Sale issued by the City Treasurer null and void. Likewise, it prayed for the Lower Court to issue a Temporary Restraining Order ("TRO") and a Preliminary Injunction and to order the petitioners and PDI to pay attorney's fees and cost of suit.[8]

On 31 March 2000, the RTC granted the TRO and ordered the petitioners to enjoin from proceeding with the publication and auction sale of the Veterans Center for twenty (20) days, starting 31 March 2000.[9]

Thereafter, petitioners filed their Answer with Compulsory Counterclaim on 5 April 2000. They alleged that the Veterans Center is subject to RPT. They also claimed, by way of compulsory counterclaim, actual and moral damages and attorney's fees.[10]

On 19 April 2000, the RTC issued a Writ of Preliminary Injunction in favor of respondent, after the same posted an injunction bond of ₱10,000,000.00.[11]

PDI filed its Answer on 22 June 2000.[12]

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[5] Letter dated 8 March 2000 (Exhibit "J"), RTC Records, Vol. 1, pp. 541-542.
[6] Notice of Publication and Auction Sale (Exhibit "L-9"), RTC Records, Vol. 1, p. 554.
[7] Petition, RTC Records, Volume 1, pp. 5-32, with annexes.
[8] *Ibid.*
[9] Order dated 31 March 2000, RTC Records, Vol. 1, p. 67.
[10] Answer with Compulsory Counter Claim, RTC Records, Vol. 1, pp. 74-81.
[11] Writ of Preliminary Injunction, RTC Records, Vol. 1, 160-161.
[12] Answer, RTC Records, Vol. 1, pp. 169-175.

After the RTC dismissed the case for failure to prosecute on 8 March 2001,[13] and subsequently reinstated the same on 27 March 2001,[14] the parties were ordered to file their respective Pre-Trial Briefs. PDI, respondent, and petitioners filed their Pre-Trial Briefs on 24 April 2001,[15] 30 April 2001,[16] and 21 June 2001,[17] respectively.

With the filing of the parties' respective Pre-Trial Briefs, the RTC set the case for Pre-Trial. However, after numerous resetting made by the parties, the RTC issued an Order, dated 26 August 2003, declaring the respondent non-suited and dismissing the case for failure to prosecute.[18] The case was later on reinstated by the RTC on 18 September 2003.[19]

On 15 September 2004, the RTC issued an Order referring the case to the Philippine Mediation Center ("PMC") for mediation proceedings.[20] Since the parties failed to mediate, the case was set for Pre-Trial Conference.[21]

On 3 January 2007, Great Domestic Insurance Company of the Philippines, Inc., the bonding company which issued respondent's injunction bond, posted a Motion for Cancellation of Bond. It alleged that respondent failed to pay the bond premium despite notice.[22] Thereafter, on 12 January 2007, the RTC granted the bonding company's Motion and ordered the injunction bond cancelled. Meanwhile, respondent was granted a period of thirty (30) days to post a new injunction bond.[23]

On 19 January 2007, the respondent filed its Very Urgent Motion for Contempt asking the court to cite the then City Treasurer, Atty. Rosario Reyes, in contempt on the ground that she intentionally and deliberately defied the existing Injunction and sold the Veterans Center at public auction.[24]

Subsequently, respondent filed its new injunction bond issued by South Sea Surety Insurance Co., Inc. on 24 January 2007.[25]

Once again, on 26 June 2007, the RTC issued an Order dismissing the case for failure to prosecute.[26] The respondent filed its Very Urgent Motion for Reconsideration and To Set Case for Pre-Trial seeking reconsideration of

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[13] Order dated 8 March 2001, RTC Records, Vol. 1, p. 189.
[14] Order dated 27 March 2001, RTC Records, Vol. 1, p. 202.
[15] PDI's Pre-Trial Brief, RTC Records, Vol. 1, pp. 203-206.
[16] Respondent's Pre-Trial Brief, RTC Records, Vol. 1, pp. 207-212.
[17] Petitioners' Pre-Trial Brief, RTC Records, Vol. 1, pp. 219-220.
[18] Order dated 26 August 2003, RTC Records, Vol. 1, p. 247.
[19] Order dated 18 September 2003, RTC Records, Vol. 1, p. 260.
[20] Order dated 15 September 2004, RTC Records, Vol. 1, p. 268.
[21] Order dated 20 January 2006, RTC Records, Vol. 1, p. 280.
[22] Motion for Cancellation of Bond, RTC Records, Vol. 1, pp. 290-295.
[23] Order dated 12 January 2007, RTC Records, Vol. 1, p. 297.
[24] Very Urgent Motion for Contempt, RTC Records, Vol. 1, pp. 298-299.
[25] Injunction Bond and other pertinent records, RTC Records, Vol. 1, pp. 303-334.
[26] Order dated 26 June 2007, RTC Records, Vol. 1, p. 387.

the RTC's latest order of dismissal.[27] On 27 July 2007, the RTC issued an Omnibus Order, granting respondent's Very Urgent Motion for Reconsideration and To Set Case for Pre-Trial but denying its Very Urgent Motion for Contempt.[28]

On 19 February 2008, the RTC issued the Pre-Trial Order terminating the Pre-Trial stage and setting the case for trial.[29]

Respondent presented Atty. Horatio Dante R. Mauricio, Assistant General Manager of VFP. His testimony reiterated the respondent's allegations in its Petition, and he identified documents referred to in his Affidavit dated 20 May 2008.[30]

During his cross-examination, he averred that the Veterans Federation of the Philippines Industrial Center ("VFPIC") is the office that manages and leases out part of the Veterans Center to the public, which includes commercial enterprises. He stated that VFPIC only manages the Veterans Center. He admitted that there are improvements in the property, such as roads, warehouses, and around thirty (30) buildings, some of which are owned by Peter Built, Panasonic, JY & Sons, among others. Meanwhile, he confirmed that respondent owned around three (3) or four (4) buildings inside the Veterans Center which are used for rehabilitation, medical services, and training programs offered to the veterans. Finally, he testified that the ownership of the Veterans Center belongs to the National Government[31] and that the ownership of the said property has not been transferred to VFP but only its possession.[32]

Next, respondent presented Orestes F. Lopez, Treasurer General of VFP. He testified that VFPIC is the office in charge of the Veterans Center. He said that the Veterans Center is owned by the National Government which was allocated to VFP for purposes of ensuring that its members are properly taken care of, pursuant to RA No. 2640. He explained that the Veterans Center houses the Veterans Federation of the Philippines Out-patient Clinic, which serves the veterans from all over Luzon, and a War Museum/Library and archives which perpetuates the war experiences of the veterans. He also stated that all revenues realized by the respondent are used for the benefit of its members pursuant to its purpose. He identified respondent's Financial Reports for years 2003-2007 to prove his claim.[33]

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[27] Very Urgent Motion for Reconsideration and to Set Case for Pre-Trial, RTC Records, Vol. 1, pp. 388-392.
[28] Omnibus Order dated 27 July 2007, RTC Records, Vol. 1, pp. 426-427.
[29] Pre-Trial Order, RTC Records, Vol. 1, pp. 473-477.
[30] Decision, Records, pp. 28-47; Affidavit (Exhibit "L"), RTC Records, Vol. 1, pp. 480-487.
[31] TSN 30 September 2008, RTC Records, Vol. IV, pp. 71-101.
[32] TSN 4 November 2008, RTC Records, Vol. IV, pp. 132-140.
[33] Decision, Records, pp. 28-47; Affidavit (Exhibit "M"), RTC Records, Vol. 2, pp. 5-7.

During his cross-examination, he testified that the out-patient clinic and museum are exclusively devoted for charitable and non-profitable activities. He also confirmed that aside from the area occupied by both structures, the rest of the 50-hectare property are being leased out. He explained that all rental revenues are used exclusively for the benefit of the veterans pursuant to RA No. 2640.[34]

On 3 December 2008, respondent filed its Formal Offer of Evidence.[35] The RTC admitted all pieces of evidence it presented and offered.[36]

On 20 April 2009, PDI filed its Demurrer to Evidence[37] arguing that it has nothing to do with the principal claim of the respondent. The same was denied by the RTC on 11 August 2009.[38]

Subsequently, on 29 August 2012, the RTC issued an Order ruling that petitioners' right to present evidence is considered waived due to their failure to present evidence despite notice.[39] The petitioners sought reconsideration[40] of the said Order which the RTC granted on 29 November 2012.[41]

Thereafter, the petitioners presented their witnesses.

Their first witness was Mr. Teodoro S. Cruz, who was the Head of the RPT Division of the Office of the City Treasurer, Taguig City. He testified that part of his duties is to take charge of delinquent accounts of taxpayers. He said that the registered owner of the Veterans Center, as indicated on the Tax Declaration, is the respondent. He mentioned that the description of the Veterans Center on the Tax Declaration is Industrial. He explained that RA No. 7291 did not restore respondent's RPT exemption. He said that the Veterans Center is being leased out to commercial enterprises and generates huge revenues. Considering that the property in its entirety is not actually, directly, and exclusively used for charitable purposes, the petitioners charged respondent for RPT. He also explained that respondent had not been paying RPT and that as of the year 2013, respondent's RPT liability reached ₱477,127,008.96, including penalties and interest. He also testified that the petitioners' issuance of the Tax Assessment Notice, Warrant of Levy, and other legal documents were done in accordance with law.[42]

In his cross-examination, Mr. Cruz admitted that he was still not connected with the RPT Division in the year 2000 when the Notice of

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[34] TSN 4 November 2008, RTC Records, Vol. IV, pp. 141-176.
[35] Petitioner's Formal Offer of Evidence, RTC Records, Vol. 1, pp. 516-642; and Vol. 2, 5-91.
[36] Order dated 27 February 2009, RTC Records, Vol. 2, p. 148.
[37] Demurrer to Evidence, RTC Records, Vol. 2, pp. 149-156.
[38] Order dated 11 August 2009, RTC Records, Vol. 2, p. 178.
[39] Order dated 29 August 2012, RTC Records, Vol. 2, p. 231.
[40] Motion for Reconsideration, RTC Records, Vol. 2, pp. 242-250.
[41] Order dated 29 November 2012, RTC Records, Vol. 2, p. 263.
[42] Amended Judicial Affidavit of Teodoro S. Cruz (Exhibit "4"), RTC Records, Vol. 2, pp. 456-466.

Publication and Auction Sale and Warrant of Levy were issued. He admitted that the office-in-charge of granting tax exemptions is the Assessor's Office and not his office. He also confirmed that his function does not include access to copies of lease contracts involving properties leased-out in Taguig City. Hence, his answer in his Judicial Affidavit stating that respondent receives huge revenues from its leasing operation is only based on his assumption. He mentioned that the businesses that lease portions of the Veterans Center are taxable entities that pay RPT on the buildings and improvements constructed therein. He also admitted that the Notice of Publication and Auction Sale published by PDI did not push through. Hence, respondent did not sustain damages.[43]

Next, petitioners presented Engr. Roberto S. Villaluz, the OIC of the Office of the City Assessor of Taguig City. He testified that his main duty is to conduct real property assessment, reclassify real properties based on their actual use, keep records of all transactions involving real property registration, and other related tasks. He said that based on his office records, respondent is the owner of the Veterans Center, where the actual use of the land is declared "Industrial". He testified that, although Proclamation No. 192 states that the Veterans Center shall serve as the center for the different activities of Filipino war veterans, in reality, a vast portion of the said property is devoted to commercial use. He also said that per his records, the Veterans Center is not exempted from paying RPT since it is not indicated on the tax declaration that it is exempt from paying the said tax. He also confirmed that respondent did not apply for exemption from RPT.[44]

During his cross-examination, Engr. Villaluz confirmed that it is his Office which determines whether a property is exempt from RPT. At the same time, he admitted that he did not consider RA No. 2640 and RA No. 7291 in determining whether respondent is exempted from RPT. He also mentioned that he was only appointed in 2010 and thus was not aware whether respondent had previously filed a claim for tax exemption in relation to its use of the Veterans Center.[45]

Lastly, petitioners presented Mr. Jameson Mapalad, Administrative Aide III of the Business Permit & Licensing Office ("BPLO") of Taguig City. He testified that his main duty is to assess Business Tax imposed against taxpayers who are operating in Taguig City. Per records of his office, the Veterans Center is the location of around one (100) hundred business establishments. Some of these establishments are wholesalers and retailers, namely, J.Y. & Sons, Peterbilt Property Ventures, and Panorama Development Corporation.[46]

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43 TSN 26 May 2015, RTC Records, Vol. 4, pp. 250-279.
44 Amended Judicial Affidavit of Engr. Roberto S. Villaluz (Exhibit "10"), RTC Records, Vol. 2, pp. 578-583.
45 TSN 20 October 2015, RTC Records, Vol. 4, pp 309-330.
46 Amended Judicial Affidavit of Jameson V. Mapalad (Exhibit "21"), RTC Records, Vol. 2, pp. 495-500.

In his cross-examination, Mr. Mapalad admitted that his basis in determining ownership of property within Taguig City is the SEC Registrations and contracts of lease submitted by the business establishments. He also affirmed that the said documents are his bases in saying that respondent is the owner of the Veterans Center.[47]

On 18 May 2016, petitioners filed their Formal Offer of Evidence.[48] The RTC admitted all the pieces of evidence submitted by the same.[49]

Thereafter, PDI presented its own witness and documentary evidence.

Subsequently, respondent and petitioners filed their respective Memoranda on 12 July 2017,[50] and 14 July 2017.[51]

On 11 December 2017, the RTC rendered the assailed Decision[52] granting respondent's Petition, and declaring the Warrant of Levy, and Notice of Publication and Auction Sale null and void, to wit:

> "**WHEREFORE,** the petition is **GRANTED.** As prayed for, the Warrant of Levy dated February 18, 2000 and the Notice of Publication and Auction Sale dated March 20, 2000 are hereby **DECLARED NULL** and **VOID.**
>
> Petitioner's claims for attorney's fees as well as the respective counterclaims of the respondents are **DISMISSED** for want of evidentiary basis.
>
> SO ORDERED."

Aggrieved, petitioners posted their Motion for Reconsideration on 27 February 2018.[53] The same was denied by the RTC on 8 October 2018.[54]

Thereafter, the petitioners filed their Petition for Review with this Court on 7 December 2018.[55]

On 15 February 2019, the respondent posted its Comment (on Petitioner's 6 December 2018 Petition for Review),[56] which was within the extended period granted by this Court.[57]

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47 TSN 9 February 2016, RTC Records, Vol. 4, 352-367.
48 Formal Offer of Evidence, RTC Records, Vol. 3, 56-275.
49 Order dated 30 September 2016, RTC Records, Vol. 3, p. 293.
50 Respondent's Memorandum, RTC Records, Vol. 3, pp. 353-363.
51 Petitioners' Memorandum, RTC Records, Vol. 3, pp. 364-383.
52 Decision, RTC Records, Vol. 3, pp. 576-595.
53 Motion for Reconsideration, RTC Records, Vol. 3, pp. 596-606.
54 Order dated 8 October 2018, RTC Records, Vol. 3, p. 657.
55 Petition for Review, Records, pp. 8-97, with annexes.
56 Comment, Records, pp. 105-117.
57 Resolution dated 29 January 2019, Records, p. 104.

On 6 March 2019, the RTC elevated the case records of the above-captioned case to this Court.[58]

Following the parties filing of their respective Memoranda on 27 June 2019 for the respondent,[59] and 29 July 2019 for the petitioners[60], this Court issued a Resolution on 24 October 2019 submitting the case for decision.

The Issues

The petitioners submitted the following issues for this Court's consideration:

> WHETHER OR NOT THE RTC GRAVELY ERRED IN HOLDING THAT RESPONDENT IS A GOVERNMENT INSTRUMENTALITY AND THUS, EXEMPTED FROM PAYMENT OF RPT.
>
> WHETHER OR NOT THE RTC GRAVELY ERRED IN HOLDING THAT THE LIABILITY TO PAY RPT WITH RESPECT TO PORTIONS OF THE VETERANS CENTER THAT HAVE BEEN LEASED TO PRIVATE TAXABLE ENTITIES DOES NOT PERTAIN TO RESPONDENT BUT RATHER TO TAXABLE PERSONS WHO HAD ACTUAL OR BENEFICIAL USE AND POSSESSION OF THE PROPERTY.
>
> WHETHER THE RTC GRAVELY ERRED IN DECLARING AS NULL AND VOID THE WARRANT OF LEVY AND NOTICE OF PUBLICATION AND AUCTION SALE.

Arguments of the Parties

Petitioners' Arguments[61]

Petitioners argue that, contrary to the findings of the RTC, the respondent is not a government instrumentality, but a non-stock, non-profit corporation, as admitted by the respondent in its pleadings and as shown in its documentary evidence.

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[58] Compliance, Records, pp. 118-149.
[59] Respondent's Memorandum, Records, pp. 158-169.
[60] Petitioners' Memorandum, Records, pp. 183-203.
[61] *Ibid.*

Furthermore, they explain that the exemption given to the respondent is only limited to taxes and duties imposed by the national government and does not include those imposed by the local government. They opine that the exemption of respondent from paying local taxes has already been withdrawn by the LGC.

However, assuming that respondent is a government instrumentality, petitioners insist that it is still subject to RPT since its use of the Veterans Center, specifically, the area leased out to business establishments, renders it ineligible to claim exception from RPT as provided under Sections 234 (a) and (b) of the LGC, which states that a real property, when beneficially used by a taxable person, is not exempt from RPT; and only a real property that is actually, directly, and exclusively used for religious, charitable, or educational purposes are exempt from RPT.

They also allege that considering the use of the Veterans Center disqualifies respondent from claiming exemption from RPT, it cannot pass on the responsibility of paying the said tax to its lessees because as the declared owner of the subject land, respondent is the one which has the obligation to pay the RPT.

Respondent's Counter-arguments[62]

Respondent argues that the Petition must be dismissed for utter lack of basis and for being unmeritorious.

Respondent explains that it was created by virtue of RA No. 2640 to represent and defend the interests of veterans. It opines that it is a public office that exercises sovereign and executive functions to implement not just RA No. 2640 but the Constitution. Hence, as a public office it is exempt from paying RPT.

It states that its funds are public in nature and are used for public purposes. It states that the same are sourced from dues paid by its members and lease rentals it earns from administering the Veterans Center. It alleges that the respondent does not receive government funding. Hence, it leases out parts of the Veterans Center, not to engage in commercial activities, but to accumulate funds sufficient for its subsistence and survival, and for the exclusive benefit of its members.

Likewise, respondent explains that the Veterans Center is owned by the National Government and is only administered by VFP, pursuant to Proclamation No. 192 which reserves the Veterans Center for the veterans.

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[62] Respondent's Memorandum, Records, pp. 158-169.

Hence, it argues that since the said property is of public dominion, it is not subject to tax.

However, assuming that the leased area of the Veterans Center is subject to RPT, it argues that it should not be held liable since the lessees are the beneficial users of the property and thus, are the entities liable to pay the RPT.

The Ruling of the Court

After going through the arguments raised by the parties, the Court finds no cogent reason to reverse the assailed Decision and Order of the RTC.

VFP is a government instrumentality and, thus, is exempt from paying RPT.

Based on the records of this case, respondent is a corporate body created under RA No. 2640. Since the 1973 and the 1987 Constitutions prohibit the creation of private corporations through special laws,[63] respondent can only be categorized either as a government instrumentality or a government owned and/or controlled corporation ("GOCC"), which are defined under ***Sections 2(10) and (13) of the Introductory Provisions of the Administrative Code of 1987***,[64] as follows:

> "SECTION 2. General Terms Defined. — Unless the specific words of the text, or the context as a whole, or a particular statute, shall require a different meaning:
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> xxx xxx xxx
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> (10) **Instrumentality** refers to any agency of the National Government, not integrated within the department framework vested **with special functions** or jurisdiction by law, **endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter.** This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.
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> xxx xxx xxx
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> (13) Government-owned or controlled corporation refers to any agency organized **as a stock or non-stock corporation**, vested with **functions relating to public needs whether governmental or proprietary in nature**, and **owned by the Government** directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital

[63] VFP v. Reyes, et. al., G.R. No. 155027, 28 February 2006.
[64] Executive Order No. 292, s. 1987, 25 July 1987.

> stock: Provided, That government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations."[65]

The Supreme Court further differentiated government instrumentality and GOCC in the case of ***Republic of the Philippines v. City of Parañaque***,[66] to wit:

> From the above definitions, it is clear that a **GOCC must be "organized as a stock or non-stock corporation"** while an **instrumentality is vested by law with corporate powers**. Likewise, when the law makes a government instrumentality operationally autonomous, the instrumentality remains part of the National Government machinery although not integrated with the department framework.
>
> When the law vests in a **government instrumentality corporate powers, the instrumentality does not necessarily become a corporation. Unless the government instrumentality is organized as a stock or non-stock corporation, it remains a government instrumentality exercising not only governmental but also corporate powers**.
>
> 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, 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.** These government instrumentalities are sometimes loosely called government corporate entities. They are not, however, GOCCs in the strict sense as understood under the Administrative Code, which is the governing law defining the legal relationship and status of government entities.
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> xxx xxx xxx
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> **Furthermore, there is another reason why the PRA cannot be classified as a GOCC.** Section 16, Article XII of the 1987 Constitution provides as follows:
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>> Section 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. **Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.**

[65] Emphasis supplied.
[66] G.R. No. 191109, 18 July 2012.

> **<u>The fundamental provision above authorizes Congress to create GOCCs through special charters on two conditions: 1) the GOCC must be established for the common good; and 2) the GOCC must meet the test of economic viability.</u>** xxx"[67]

Based on jurisprudence, an entity can only be considered as a GOCC if it satisfies three (3) requisites, to wit:

1. it is organized as a stock or non-stock corporation;
2. it is established for the common good; and
3. it meets the test of economic viability.

Failure to meet all the requisites renders the entity a government instrumentality.

The importance of establishing the type of entity respondent falls under is important in order to determine whether it is exempt from paying RPT or not since ***Section 133(o) of the LGC*** exempts government instrumentalities from paying local taxes including RPT. The same privilege is not available to GOCCs. The pertinent portion of the LGC is hereby quoted, to wit:

> "SEC. 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 <u>shall not extend to the levy</u> of the following:**
>
> (o) **<u>Taxes, fees or charges of any kind</u>** on the National Government, its agencies and **<u>instrumentalities</u>**, and local government units."[68]

Apropos to the first requisite, ***Section 3 of the Revised Corporation Code*** defines a stock corporation as those which has capital stock divided into shares and are authorized to distribute to the holders of such shares, dividends, or allotments of the surplus profits on the basis of the shares held.[69] Meanwhile, ***Section 86 of the Revised Corporation Code*** provides that a non-stock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers.[70]

Here, respondent is neither a stock nor non-stock corporation.

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[67] Emphasis supplied.
[68] Emphasis supplied.
[69] An Act Providing for the Revised Corporation Code of the Philippines (Revised Corporation Code of the Philippines), RA No. 11232, 20 February 2019.
[70] *Ibid.*

As found by the RTC, VFP is not a stock corporation since RA No. 2640 prohibits it from issuing certificates of stocks or declaring and paying dividends, to wit:

> "SECTION 6. **The Federation shall have no power to issue certificates of stock or to declare or pay dividends, all funds in excess of operating expenses being reserved for disbursement**, as the Supreme Council may authorize, for the purposes stated in Section two of this Act."[71]

Neither is respondent a non-stock, non-profit corporation since as explained by the Supreme Court in ***VFP v. Reyes, et al.,***[72] respondent does not have members *per se* as contemplated under the Corporation Code. The said case explained that VFP is merely an aggregation of the heads of affiliate organizations enumerated under Section 1 of RA No. 2640. The case also explained that the dues paid by its affiliates are more in the nature of donations. The pertinent portions of the case are hereby quoted, to wit:

> We also observed in the same COCOFED case that "(e)ven if the money is allocated for a special purpose and raised by special means, it is still public in character." In the case at bar, some of the funds were raised by even more special means, **as the contributions from affiliate organizations of the VFP can hardly be regarded as enforced contributions as to be considered taxes. They are more in the nature of donations which have always been recognized as a source of public funding.** Affiliate organizations of the VFP cannot complain of their contributions becoming public funds upon the receipt by the VFP, since they are presumed aware of the provisions of Rep. Act No. 2640 which not only specifies the exclusive purposes for which VFP funds can be used, but also provides for the regulation of such funds by the national government through the Secretary of National Defense. xxx.
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> xxx xxx xxx
>
> Petitioner's stand that the VFP is a private corporation because membership thereto is voluntary is likewise erroneous. As stated above, the **membership of the VFP is not the individual membership of the affiliate organizations, but merely the aggregation of the heads of such affiliate organizations.** These heads forming the VFP then elect the Supreme Council and the other officers, of this public corporation.[73]

As for the second requisite, this Court examined the purpose for which respondent was created as stated in ***Section 4 of RA No. 2640*** in order to determine whether it complies with the said requisites, to wit:

> SECTION 4. The purposes of the Federation shall be to uphold and defend the democratic way of life as envisioned in the Constitution of the Republic of the Philippines; to represent and to defend the interests of all Filipino veterans; to coordinate the efforts of all different veterans of the

[71] Emphasis supplied.
[72] G.R. No. 155027, 28 February 2006.
[73] Emphasis supplied.

> Philippines in behalf of the interests of respective members; to promote mutual help among former comrades-in-arms; to perpetuate their common experiences in war to undertake acts of charity and relief work; to preserve peace and order; to foster love of country and things Filipino and inculcate individual civic consciousness. In general, the Federation shall exist solely for purposes of a benevolent character, and not for pecuniary profit of its members.

A close reading of the aforementioned provision proves that respondent was created for the common good and welfare of the veterans. As stated in the above-quoted provision, the purposes of respondent are to defend the interest of veterans, to promote mutual help among themselves, to foster love for the Philippines, among others. Hence, it is clear that respondent is compliant with the second requisite.

However, it also fails to meet the third requisite.

In the case of ***Republic of the Philippines v. City of Parañaque***,[74] the Supreme Court discussed the criteria to determine whether a GOCC satisfies the economic viability test, to wit:

> "The Constitution expressly authorizes the legislature to create "government-owned or controlled corporations" through special charters only if these entities are required to meet the twin conditions of common good and economic viability. In other words, Congress has no power to create government-owned or controlled corporations with special charters unless they are made to comply with the two conditions of common good and economic viability. **The test of economic viability applies only to government-owned or controlled corporations that perform economic or commercial activities and need to compete in the market place.** Being essentially economic vehicles of the State for the common good — meaning for **economic development purposes** — these government-owned or controlled corporations with special charters are usually organized as stock corporations just like ordinary private corporations.
>
> In contrast, **government instrumentalities vested with corporate powers and performing governmental or public functions need not meet the test of economic viability**. These instrumentalities perform essential **public services for the common good**, services that every modern State must provide its citizens. **These instrumentalities need not be economically viable since the government may even subsidize their entire operations.** These instrumentalities are not the "government-owned or controlled corporations" referred to in Section 16, Article XII of the 1987 Constitution.
>
> Thus, **the Constitution imposes no limitation when the legislature creates government instrumentalities vested with corporate powers but performing essential governmental or public functions.** Congress has plenary authority to create government instrumentalities vested with corporate powers provided these instrumentalities perform essential government functions or public services. **However, when the**

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

> **legislature creates through special charters corporations that perform economic or commercial activities, such entities — known as "government-owned or controlled corporations" — must meet the test of economic viability because they compete in the market place.**"[75]

Taking into consideration the foregoing, it is evident in RA No. 2640 that respondent neither performs economic or commercial activities nor does it compete in the market place. Rather, it performs sovereign functions and essential public service to promote and protect the interests of war veterans and to provide care and assistance to them in line with the mandate of its charter and the social justice provisions of the Constitution.[76] Accordingly, it fails to meet the third requisite which is the test of economic viability.

Hence, since respondent failed to satisfy the first and third requisites, this Court rules that VFA is not a GOCC but a government instrumentality.

Furthermore, the issue on whether respondent is a GOCC or a government instrumentality has long been settled in the case of ***VFP v. Reyes, et al.,***[77] where the Supreme Court held that respondent is a Public Corporation, to wit:

> "These arguments of petitioner notwithstanding, we are constrained to rule that petitioner is in fact a public corporation. Before responding to petitioner's allegations one by one, here are the more evident reasons why the **VFP is a public corporation** xxx."[78]

In turn, the word "Public Corporation" was ruled by the Supreme Court to be a term equivalent or synonymous to government instrumentality, as extant in the case of ***Boy Scouts of the Philippines v. Commission on Audit***,[79] to wit:

> It may be gleaned from the above discussion that Article XII, Section 16 bans the creation of "private corporations" by special law. The said constitutional provision should not be construed so as to prohibit the creation of **public corporations or a corporate agency or instrumentality of the government intended to serve a public interest or purpose, which should not be measured on the basis of economic viability, but according to the public interest or purpose it serves as envisioned by paragraph (2), of Article 44 of the Civil Code and the pertinent provisions of the Administrative Code of 1987.**
>
> The BSP is a Public Corporation Not Subject to the Test of Government Ownership or Control and Economic Viability
>
> The BSP is a **public corporation or a government agency or instrumentality with juridical personality, which does not fall within**

[75] Emphasis supplied.
[76] VFP v. Reyes, G.R. No. 155027, 28 February 2006.
[77] *Ibid.*
[78] Emphasis supplied.
[79] G.R. No. 177131, 7 June 2011.

> **the constitutional prohibition in Article XII, Section 16, notwithstanding the amendments to its charter. Not all corporations, which are not government owned or controlled, are ipso facto to be considered private corporations as there exists another distinct class of corporations or chartered institutions which are otherwise known as "public corporations." These corporations are treated by law as agencies or instrumentalities of the government which are not subject to the tests of ownership or control and economic viability but to different criteria relating to their public purposes/interests or constitutional policies and objectives and their administrative relationship to the government or any of its Departments or Offices.**

Therefore, on the bases of the foregoing, this Court is certain that respondent is a government instrumentality. Therefore, it is exempt from paying RPT.

RA No. 2640 expressly exempts respondent from the payment of taxes

Assuming *arguendo* that respondent is not a government instrumentality, this Court still finds VFP exempt from paying RPT pursuant to ***Section 11 of RA No. 2640***, which provides:

> SECTION 11. The Federation is expressly exempted from **payment of any and all taxes**.

Such privilege was reiterated by ***RA No. 7291***[80] on 24 March 1992, which provides:

> "SECTION 1. Notwithstanding the provisions of Executive Order No. 93 and Presidential Decree No. 1931, **the tax and duty incentives previously enjoyed by the Veterans Federation of the Philippines under Republic Act Numbered Twenty-six hundred and forty are hereby restored**: Provided, That no dollar outflow shall in any manner be involved in the exchange of transaction.
>
> SEC. 2. **All laws, decrees, orders, issuances, rules and regulations, or parts thereof, inconsistent with this Act are hereby repealed or modified accordingly.**"[81]

As can be gleaned in ***RA No. 2640***, the law is clear that respondent is exempt from payment of all types of taxes. Contrary to petitioners' assertion, the law did not distinguish as to what type of tax respondent is exempted from

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[80] An Act Restoring the Tax and Duty Incentives Previously Enjoyed by the Veterans Federation of the Philippines Under Republic Act Numbered Twenty-Six Hundred and Forty, RA No. 7291, 24 March 1992.

[81] Emphasis supplied.

paying. Since the law makes no distinction or exemptions, neither should this Court. *Ubi lex non distinguit nec nos distinguere debemos.*[82]

Furthermore, this Court cannot ascribe to the argument of petitioners that the exemption granted to respondent from paying RPT are considered withdrawn by virtue of Section 193 of the LGC. As can be seen in ***Section 2 of RA No. 7291***, the said law repealed all laws inconsistent with the tax exemption privilege granted to respondent. Since ***RA No. 7291*** was enacted after the LGC, the former prevails.

The Veterans Center is owned by the Republic of the Philippines and, as such, is exempted from payment of RPT.

Aside from the reasons cited above, this Court also finds that the Veterans Center falls as one of the properties exempt from RPT pursuant to ***Section 234 of the LGC***, which provides that all real properties owned by the Republic of the Philippines are exempt from paying the said tax, to wit:

> 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;[83]

In this case, ***Proclamation 192***[84] is clear that the Veterans Center is not owned but is only administered by respondent. The ownership of said property remained with the Republic of the Philippines.

The tax declaration presented by petitioners under the name of respondent is not enough to prove that the latter is the owner of the Veterans Center since tax declarations are not conclusive proof of ownership, but only an indicia of possession in the concept of owner.[85] Hence, as between the evidence presented by the petitioners and Proclamation 192, this Court gives greater weight to the later.

Even assuming that petitioners are correct in saying that respondent is the owner of the Veterans Center, still the property is exempt from RPT since VFP is a government instrumentality, and as such, all properties registered under its name are considered owned by the Republic of the Philippines. This

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[82] Castillo v. Uniwide Warehouse Club, Inc., G.R. No. 169725, 30 April 2010.
[83] Emphasis supplied.
[84] Reserving for the Veterans Center Site Purposes a Certain Parcel of Land of the Private Domain Situated in the Province of Rizal, Island of Luzon, 4 April 1967.
[85] Republic v. Ng, G.R. No. 182449, 6 March 2013.

was the clear import in ***Republic of the Philippines v. City of Parañaque***,[86] as follows:

> "Clearly, respondent has no valid or legal basis in taxing the subject reclaimed lands managed by PRA. **On the other hand, Section 234(a) of the LGC, in relation to its Section 133(o), exempts PRA from paying realty taxes and protects it from the taxing powers of local government units.**
>
> xxx xxx xxx
>
> **It is clear from Section 234 that real property owned by the Republic of the Philippines (the Republic) is exempt from real property tax** unless the beneficial use thereof has been granted to a taxable person. In this case, there is no proof that PRA granted the beneficial use of the subject reclaimed lands to a taxable entity. There is no showing on record either that PRA leased the subject reclaimed properties to a private taxable entity.
>
> **This exemption should be read in relation to Section 133(o) of the same Code, which prohibits local governments from imposing "taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities x x x." The Administrative Code allows real property owned by the Republic to be titled in the name of agencies or instrumentalities of the national government. Such real properties remain owned by the Republic and continue to be exempt from real estate tax.**
>
> Indeed, the Republic grants the beneficial use of its real property to an agency or instrumentality of the national government. This happens when the title of the real property is transferred to an agency or instrumentality even as the Republic remains the owner of the real property. Such arrangement does not result in the loss of the tax exemption, unless "the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.""

Given the foregoing reasons it is clear that respondent is exempt from paying RPT based on three grounds:

1. respondent is exempt from RPT since it is a government instrumentality;
2. respondent is exempt from RPT as provided under RA No. 2640; and
3. respondent is exempt from RPT since the ownership of the Veterans Center remains with the Republic of the Philippines.

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

RPT is chargeable against the taxable person who has actual or beneficial use and possession of the property.

Although this Court has found that respondent is exempt from paying RPT, the Court recognizes that the subject land may be subject to RPT when its beneficial use has been granted, for a consideration, to a taxable person (hereinafter referred to as the **"Beneficial Use Rule"**).[87]

The Beneficial Use Rule was explained in several Supreme Court cases including the case of ***GSIS v. City Treasurer and City Assessor of the City of Manila***[88] where it was ruled that the tax exemption of the property of the Republic or its instrumentality ceases if the beneficial use of the property has been granted, for a consideration or otherwise, to a taxable person. In this case, the GSIS, as a government instrumentality, was found to have lost its status with respect to the Katigbak property when it contracted its beneficial use to MHC, a taxable person.

Aside from the aforementioned jurisprudence, the case of ***Republic v. City of Kidapawan, et al.,***[89] also proves this point, to wit:

> "The above provision **exempts from real property taxation properties of the government, provided the beneficial use of the property was not transferred to a taxable person.** Conversely, if the **beneficial use has been transferred to a taxable entity**, such as PNOC-EDC, **then the real property owned by the government, which in this case is the MAGRA, is subject to real property tax.** At this point, it is well to note that in real estate taxation, **the unpaid tax attaches to the property and is chargeable against the taxable person who had actual or beneficial use and possession of it regardless of whether or not he is the owner**."[90]

Here, respondent already admitted that portions of the Veterans Center are being leased out to taxable entities. Therefore, based on the Beneficial Use Rule, the RPT exemption does not apply to those areas where the beneficial use of the Veterans Center had already been granted to taxable entities which in this case are the portions of the property leased out to business establishments.

What is important to note is that the obligation to pay the RPT is lodged with the different taxable entities or business establishments to which parts of the Veterans Center were leased out to. Requoting Kidapawan, above, "**the**

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[87] National Grid Corp. of the Philippines v. Central Board of Assessment Appeals, C.T.A. EB Case No. 801, 8 July 2013.
[88] G.R. No. 186242, 23 December 2009
[89] G.R. No. 166651, 9 December 2005
[90] Emphasis supplied.

unpaid tax attaches to the property and is chargeable against the taxable person who had actual or beneficial use and possession of it regardless of whether or not he is the owner."

This was echoed in the case of ***Light Rail Transit Authority v. Quezon City,***[91] to wit:

> In sum, a **government instrumentality though vested with corporate powers** are exempt from real property tax, but the exemption shall not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested. **The taxable private entities are subject to real property tax, but not the government instrumentality they have dealt with, much less, the properties of the government instrumentality subject of such beneficial use.**

Considering the clear import of the ***Kidapawan*** and ***Light Rail Transit Authority***, this Court affirms the ruling of the RTC that respondent is not the entity liable to pay the RPT. Instead, it would be the entities who have the actual or beneficial use and possession of the leased out portions of the Veterans Center.

The RTC did not err in declaring null and void the Warrant of Levy and Notice of Publication and Auction Sale issued against respondent.

At the point of being repetitive, this Court finds that respondent is a government instrumentality which administers the Veterans Center, a property owned by the Republic of the Philippines and, as such, is exempt from payment of RPT pursuant to ***Sections 133(o) and 234(a) of the LGC.***

Likewise, respondent, by virtue of ***RA No. 2640*** as reinstated by ***RA No. 7291***, renders the same exempted from payment of all types of taxes including RPT.

Therefore, considering the aforementioned bases, this Court finds respondent to have successfully proven his exemption from the payment of RPT. Hence, there was absolutely no basis for the issuance of the Warrant of Levy and Notice of Publication and Auction Sale issued against it.

WHEREFORE, premises considered, the instant Petition for Review filed on 7 December 2018 is **DENIED** for lack of merit.

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[91] G.R. No. 221626, 9 October 2019.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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
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.

ROMAN G. DEL ROSARIO
Presiding Justice