G.R. No. 211299
Light Railway Transit Authority v. City of Pasay, represented by the City Treasurer and the City Assessor

Promulgated: June 28, 2022

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CONCURRING OPINION

ZALAMEDA, *J.*:

I concur.

The *ponencia* harmonizes statutory and decisional law on the character of the Light Railway Transit Authority (LRTA) and its properties. The Court's disposition here culminates two decades of jurisprudential evolution, starting from the 2000 case of *Light Rail Transit Authority v. Central Board of Assessment Appeals,*[1] all the way to the 2019 case of *Light Rail Transit Authority v. Quezon City* (*2019 LRTA Case*).[2] With this decision, We finally lay to rest the issue of whether LRTA's properties are exempt from real estate taxes (RPT) imposed by local government units.

As will be elucidated, I share the *ponencia*'s opinion on both the procedural and substantive aspects of the case. In addition, however, I wish to bring to the fore certain matters that further highlight the soundness of the conclusions reached.

The doctrine of exhaustion of administrative remedies is inapplicable to this case

On the procedural issue, I concur with the *ponencia* that this case is among the exceptions to the doctrine of exhaustion of administrative remedies. As such, the Regional Trial Court (RTC) and the Court of Appeals (CA) erred in exacting compliance with the general rule of prior resort to a protest or appeal of the assessment. The issue raised by LRTA justifies direct resort to the courts.

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[1] 396 Phil. 860 (2000).
[2] G.R. No. 221626, 09 October 2019.

As a rule, before a party may seek judicial intervention, he or she should avail of all the administrative processes afforded him or her.[3] Premature filing of a case in court is fatal to one's cause of action.[4] These precepts stem from a recognition that administrative redress may be more expeditious, as well as Our deference to the technical expertise of other government agencies.

However, when the rationale for the rule is inexistent, the rule should be held inapplicable. This is consistent with the maxim *cessante ratione legis, cessat ipsa lex* - when the reason for the law ceases, the law itself ceases. Thus, case law has since developed more than a dozen exceptions to the rule on exhaustion of administrative remedies.[5] Among the notable ones is when the issue involved is a purely legal question.

In *Ongsuco v. Malones*,[6] the Court expounded on the reason behind the exception, thus:

> The rule on the exhaustion of administrative remedies is intended to preclude a court from arrogating unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence. Thus, **a case where the issue raised is a purely legal question, well within the competence; and the jurisdiction of the court and not the administrative agency, would clearly constitute an exception. Resolving questions of law, which involve the interpretation and application of laws, constitutes essentially an exercise of judicial power** that is exclusively allocated to the Supreme Court and such lower courts the Legislature may establish.[7] (Emphasis supplied.)

Further, in the context of tax assessments, the Court has ruled that a question of law arises when the litigant questions the very authority and power of the taxing authority to impose the assessment and collect the tax.[8]

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3 *Ongsuco v. Malones,* 619 Phil. 492, 504 (2009).

4 Id.

5 *Province of Zamboanga Del Norte v. Court of Appeals,* 396 Phil. 709 (2000):

> True, the principle of exhaustion of administrative remedies has certain exceptions as embodied in various cases. This doctrine is a relative one and is flexible depending on the peculiarity and uniqueness of the factual and circumstantial settings of a case. It is disregarded: (1) when there is a violation of due process; (2) when the issue involved is purely a legal question; (3) when the administrative action is patently illegal and amounts to lack or excess of jurisdiction; (4) when there is estoppel on the part of the administrative agency concerned; (5) when there is irreparable injury; (6) when the respondent is a department secretary whose acts, as an alter ego of the President, bears the implied and assumed approval of the latter; (7) when to require exhaustion of administrative remedies would be unreasonable; (8) when it would amount to a nullification of a claim; (9) when the subject matter is a private land in land case proceedings; (10) when the rule does not provide a plain, speedy and adequate remedy; (11) when there are circumstances indicating the urgency of judicial intervention; and unreasonable delay would greatly prejudice the complainant; (12) when no administrative review is provided by law; (13) where the rule of qualified political agency applies; and (14) when the issue of non-exhaustion of administrative remedies has been rendered moot.

6 Supra at 505.

7 Id.

8 *See Ty v. Trampe,* 321 Phil. 81 (1995).

In contrast, when the question relates to the reasonableness or correctness of the amount assessed, there is a question of fact that may be raised in the administrative remedies under Republic Act No. (RA) 7160, or the Local Government Code.[9] These parameters were laid down in the seminal case of *Ty v. Trampe* (*Ty*).[10]

In the recent case of *Metropolitan Waterworks and Sewerage System v. Central Board of Assessment Appeals* (*MWSS*),[11] the Court reiterated the ruling in *Ty*, which, almost three decades after, remains a good law. The Court ruled, thus:

> The CA palpably erred in dismissing MWSS's appeal solely on the ground of the alleged non-exhaustion of administrative remedies under the LGC. A careful reading of MWSS's arguments and allegations reveals that it is neither challenging the reasonableness or correctness of the City Assessor's assessment nor asserting error on the part of the City Treasurer's computation of the assessed tax. Plainly, MWSS is assailing the authority of the city assessor and treasurer to assess and collect real property taxes against it. **The issue of whether a local government is authorized to assess and collect real property taxes from a government entity is a pure question of law, which is beyond the LBAA and CBAA's jurisdiction.**
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> In the oft-cited case of *Ty v. Hon. Trampe*, the Court held that the rule on exhaustion of administrative remedies does not apply when the controversy does not involve questions of fact but only of law. **The protest contemplated under Section 252 of the LGC is required when there is question as to the reasonableness or correctness of the amount assessed, while an appeal to the LBAA under Section 226 is fruitful only where questions of fact are involved.** Accordingly, **when the very authority and power of the assessor to impose the assessment, and of the treasurer to collect real property taxes are in question, the proper recourse is a judicial action.**
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> Thus, despite the alleged non-exhaustion of administrative remedies, we give due course to the instant Petition on the ground that the controversy only involves a question of law.

Similar to *MWSS*, the issue in this case is purely a legal question, *i.e.*, whether LRTA is a government instrumentality whose properties are exempt from RPT. The issue turns on LRTA's charter vis-a-vis the Court's ruling in *Manila International Airport Authority v. Court of Appeals* (*2006 MIAA Case*).[12] No reception of evidence is necessary. As such, there is no need to go through the administrative process set forth in the Local Government Code. The issue being one of law, its resolution properly belongs to the

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9 Id.; *See* THE LOCAL GOVERNMENT CODE, Secs. 226 and 252.
10 Supra.
11 G.R. No. 215955, 13 January 2021.
12 528 Phil. 181 (2006).

courts. Thus, LRTA's resort to a Rule 65 petition[13] before the RTC is warranted.

In addition to the reasons proffered by the *ponencia* on the propriety of LRTA's petition, I wish to highlight the RTC's error in ruling that LRTA had other plain, speedy, and adequate remedies simply because the taxes were assessed in 1985 to 2001. In the interregnum between the tax assessments and LRTA's judicial action in 2012, a paradigm shift interceded through the *2006 MIAA Case*.

As will be further discussed, the *2006 MIAA Case* distinguished government instrumentalities with corporate powers (GICPs) from government-owned and controlled corporations (GOCCs). The ruling in the *2006 MIAA Case* put LRTA in a position to assail its claimed status as a taxable entity and the City of Pasay's (City) very authority to collect the taxes assessed. With such jurisprudential development, the remedies under the Local Government Code ceased to be plain, speedy, and adequate. As held in *Ty* and *MWSS*, these remedies contemplate adjudication of factual issues, which is not required in this case.

Similarly, LRTA could not be faulted, and should not be considered estopped, for previously admitting its tax liabilities, negotiating payment terms, and requesting for condonation of penalties. These actions were presumably made on the assumption that LRTA is a taxable entity, as pronounced in the 2000 case of *Light Rail Transit Authority v. Central Board of Assessment Appeals*.[14] LRTA could not have foreseen the ruling in the *2006 MIAA Case*. Hence, LRTA's actions were merely consistent with then-prevailing case law.

All told, I concur that LRTA's petition should be given due course notwithstanding non-exhaustion of administrative remedies. The questions raised call for the exercise of judicial power.

On the substantive issues, I concur with the *ponencia*'s characterization of LRTA and its real properties.

LRTA is a government instrumentality with corporate powers

Real properties owned by the Republic, whether titled in the name of the Republic itself or in the name of agencies or instrumentalities of the national government, are exempt from RPT. Corollary to this, Section 2(10)

[13] LRTA filed a Petition for *Certiorari*, Prohibition, and *Mandamus*.
[14] Supra.

of Executive Order (EO) 292, the Administrative Code of 1987, defines "instrumentality" as "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."[15] From this definition, the Court introduced a new category of government agencies in the landmark *2006 MIAA Case, viz*: GICPs, which are generally exempted from local taxation.

GICPs are entities which are vested with corporate powers but are not organized as stock or non-stock corporations. This category of governmental entities was statutorily recognized upon the enactment of EO 596 on 29 December 2006. Subsequently, in 2011, RA 10149, otherwise known as "GOCC Governance Act of 2011," was signed, further formalizing the creation of this new category, to wit:

> Section 3. Definition of Terms. —
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> xxx xxx xxx
>
> (n) *Government Instrumentalities with Corporate Powers (GICP)/Government Corporate Entities (GCE)* refer to instrumentalities or agencies of the government, which are neither corporations nor agencies integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter including, but not limited to, the following: the Manila International Airport Authority (MIAA), the Philippine Ports Authority (PPA), the Philippine Deposit Insurance Corporation (PDIC), the Metropolitan Waterworks and Sewerage System (MWSS), the Laguna Lake Development Authority (LLDA), the Philippine Fisheries Development Authority (PFDA), the Bases Conversion and Development Authority (BCDA), the Cebu Port Authority (CPA), the Cagayan de Oro Port Authority, the San Fernando Port Authority, the Local Water Utilities Administration (LWUA) and the Asian Productivity Organization (APO).

Hence, the classification of GICPs/government corporate entities is now officially recognized. These entities remain government instrumentalities because they are not integrated within the department framework and are vested with special functions to carry out a declared policy of the national government.[16]

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[15] *See Philippine Heart Center v. Local Government of Quezon City,* G.R. No. 225409, 11 March 2020.

[16] *See* Executive Order No. 596; Republic Act No. 10149; *Metropolitan Waterworks and Sewerage System v. Central Board of Assessment Appeals,* supra; *Philippine Heart Center v. Local Government of Quezon City,* supra; *Light Rail Transit Authority v. Quezon City,* supra; *Metropolitan Waterworks and Sewerage System v. Local Government of Quezon City,* G.R. No. 194388, 07 November 2018; and *Manila International Airport Authority v. Court of Appeal,* supra.

Prescinding from the above, an agency will be classified as a GICP when the following elements concur: (a) it performs governmental functions; and (b) it enjoys operational autonomy.[17]

In this regard, I agree with the *ponencia* that LRTA is a GICP.

To add to the *ponencia*'s disquisition on LRTA's organization, I underline that LRTA is a GICP since it performs governmental functions and enjoys operational autonomy. For one, LRTA performs governmental functions as it was organized to be "primarily responsible for the construction, operation, maintenance, and/or lease of light rail transit systems in the Philippines, giving due regard to the reasonable requirements of the public transportation system of the country" for public use.[18] The LRTA also enjoys operational autonomy, as it exists by virtue of a Charter, and its powers and functions are vested in and exercised by its Board of Directors.[19] Moreover, the vesture of LRTA's corporate powers is found in Article 2 of EO 603.[20]

I also concur with the *ponencia* that being an attached agency does not equate to being "integrated within the departmental framework."

Attachment is defined in Section 38, Book IV, Chapter 7 of the Administrative Code of 1987, as the lateral relationship between the department or its equivalent and the attached agency or coordination.[21] As We have explained in *Beja, Sr. v. Court of Appeals*,[22] an attached agency thus has a larger measure of independence from the department to which it is attached, with freedom from interference with respect to administrative matter, *viz*:

> An attached agency has a larger measure of independence from the Department to which it is attached than one which is under departmental supervision and control or administrative supervision. This is borne out by the "lateral relationship" between the Department and the attached agency. The attachment is merely for "policy and program coordination." With respect to administrative matters, the

[17] *See* Executive Order No. 596; Republic Act No. 10149; *Philippine Heart Center v. Local Government of Quezon City,* supra; *Light Rail Transit Authority v. Quezon City*, supra; *Metropolitan Waterworks and Sewerage System v. Local Government of Quezon City,* supra; and *Manila International Airport Authority v. Court of AppealAppeals,* supra.

[18] Executive Order 603 (1980), Article 1, Sec. 2.

[19] Id. at Sec 3. *See also Light Rail Transit Authority v. Quezon City*, supra.

[20] ARTICLE 2
CORPORATE POWERS
SEC. 4. General Powers. — The Authority, through the Board of Directors, may undertake such actions as are expedient for or conducive to the attainment of the purposes and objectives of the Authority, or of any purpose reasonably incidental to or consequential upon any of these purposes.

See also Light Rail Transit Authority v. Quezon City, supra.

[21] *Beja, Sr. v. Court of Appeals,* G.R. No. 97149, 31 March 1992.

[22] Supra.

> independence of an attached agency from Departmental control and supervision is further reinforced by the fact that even an agency under a Department's administrative supervision is free from Departmental interference with respect to appointments and other personnel actions "in accordance with the decentralization of personnel functions" under the Administrative Code of 1987. Moreover, the Administrative Code explicitly provides that Chapter 8 of Book IV on supervision and control shall not apply to chartered institutions attached to a Department.[23]

Further, Section 39, Chapter VIII, Book IV of the Administrative Code of 1987 expressly states that the supervision and control exercised by the department over agencies under it with respect to matters including the exercise of discretion (performance of quasi-judicial function) do not apply to attached agencies.[24]

With this in mind, I subscribe to the *ponencia*'s pronouncement that LRTA is a GICP not integrated within the department framework but is merely an agency attached to the Department of Transportation. Similar to MIAA, the Philippine Fisheries Development Authority, the Government Service Insurance System, and the Philippine Reclamation Authority, LRTA is an entity not integrated within the department framework but is nevertheless vested with special functions to carry out a declared policy of the national government.[25]

In view of the foregoing, I concur that LRTA is a GICP.

LRTA's real properties devoted to public use are not subject to real property tax

Indeed, no less than our Constitution guarantees the local autonomy of its territorial and political subdivisions.[26] Consistent with this constitutional mandate, each local government unit is granted the power to tax, by creating its own sources of revenues and to levy taxes, fees, and charges, subject to the limitations which our laws may provide.[27]

However, the Local Government Code enumerates the common limitations to the taxing powers of local government units. One is that unless otherwise provided, the power to tax shall not extend to the levy of "taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units."[28] Notably, when a local

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[23] Id.
[24] *See Peñafrancia Shipping Corp. v. 168 Shipping Lines, Inc.*, G.R. No. 188952, 21 September 2016.
[25] *See City of Lapu-Lapu v. Phil. Economic Zone Authority,* 748 Phil. 473, 541 (2014).
[26] CONSTITUTION, Article X, Sec. 1.
[27] Id. at Sec. 5.
[28] Republic Act No. 7160, Section 133(o),

government unit invokes its power to tax on the national government or any of its instrumentalities, such power is construed strictly against the former.[29]

Specifically on the collection of RPT, as mentioned, real properties owned by the Republic or any of its political subdivisions are exempt from RPT.[30] Related to this is Article 420 of the Civil Code which enumerates those deemed as property of public dominion, to wit:[31]

> **Article 420.** The following things are property of public dominion:
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> (1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
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> (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth.

A statutory exception to the above-mentioned rule is when the beneficial use of the relevant real property has been granted, with or without consideration, to a taxable entity.[32]

Accordingly, I agree with the *ponencia* that LRTA is not liable to pay for RPT on its real properties as it is a GICP.

From the cited provisions, it is clear that the general rule is local government units may not levy taxes on the national government, its agencies, or instrumentalities, unless the Local Government Code provides otherwise.[33] It has been held that there is no point in national and local governments taxing one another, as it would merely result to the transfer of public funds from one government pocket to another.[34] Hence, for failure to establish any exception to the general rule, LRTA may not be held liable for RPT on its real properties.

Likewise, I join the *ponencia* in its conclusion that LRTA's real properties are part of the public dominion intended for public use.

Verily, this Court has confirmed the exemption of properties of certain entities from RPT as they are intended for public use. In the *2006 MIAA Case*, this Court found that the airport lands and buildings of MIAA are used

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29 *See Manila International Airport Authority v. Court of Appeals*, supra.
30 Republic Act No. 7160, Sec. 234(a),
31 *Philippine Fisheries Development Authority v. Central Board of Assessment Appeals*, 653 Phil. 328, 337 (2010).
32 Supra.
33 *Metropolitan Waterworks and Sewerage System v. Local Government of Quezon City*, supra at 881.
34 *Manila International Airport Authority v. Court of Appeals*, supra.

by the public for international and domestic travels. As these properties form part of the principal airport of the country, the Court concluded that they indisputably belong to the State and are therefore not subject to RPT.

Similarly, in *Philippine Fisheries Development Authority v. Central Board of Assessment Appeals*,[35] this Court found that the Lucena Fishing Port Complex of petitioner serves as part of its "commitment to continuously provide post-harvest infrastructure support to the fishing industry, especially in areas where productivity among the various players in the fishing industry need to be enhanced."[36] Hence, as the Complex is devoted to public use, it was concluded that it is exempt from RPT.

The same conclusion was arrived at in the case of *Philippine Heart Center v. Local Government of Quezon City* (*Philippine Heart Center Case*),[37] where petitioner is a government instrumentality which renders essential public healthcare services. Given the mandate and purpose of petitioner, this Court likewise found that its properties are of public dominion intended for public use, and are thus exempt from RPT.

It bears stressing that in the *2019 LRTA Case*,[38] this Court was given the opportunity to discuss the nature of LRTA's properties. It was stated therein that the "light rail transit system is one of the major means of transportation in Metro Manila" and therefore "performs a crucial role in the lives of the people". Given its main purpose of providing a viable public transportation system, it was held that LRTA's railroads, carriageways, terminal stations, and the lots on which they are situated are properties of public dominion intended for public use, and are therefore exempt from RPT.

Consistent with the above-mentioned cases and in light of this Court's pronouncement in the *2019 LRTA Case*, LRTA's railroads and terminals should be deemed exempt from RPT.

Nonetheless, as stated in the *ponencia*,[39] the portions of the properties which are being leased to taxable private entities should be subject to RPT as the exemption no longer extends to them. To add to the *ponencia*'s discussion on this matter, the ruling of the Court in the *Philippine Heart Center Case* is instructive:[40]

> Jurisprudence requires that respondents not only allege but also prove that the properties of the PHC have indeed been leased to private

[35] Supra.
[36] Supra at 337.
[37] Supra.
[38] Supra.
[39] *Ponencia*, p. 24.
[40] Supra.

> individuals; and the assessments, validly served **on the lessees** which have actual and beneficial use thereof. Here, respondents' bare allegation that the PHC had been leasing its properties to private individuals, without more, is not sufficient to justify the affirmance of the Court of Appeals' rulings. As it was, respondents failed to specify which of the eleven (11) properties or portions thereof were being leased out, to whom they were being leased, and the lease periods for which the private individuals are to be taxed. Consequently, respondents also failed to show that the taxable lessees were validly served notices of assessments covering the properties purportedly leased out by the PHC.

From the above pronouncement, it can be derived that the fact that beneficial use of the portions of LRTA's properties was granted to taxable entities must be alleged and proven with sufficient evidence.[41] Further, the liability for RPT in such a situation falls on the taxable entities, and the corresponding assessments must be duly served on them.[42]

In any case, ultimately, I agree with the *ponencia*'s determination that LRTA's real properties devoted for public use are not subject to RPT.

ACCORDINGLY, I vote to GRANT the Petition.

RODIL V. ZALAMEDA
Associate Justice

CERTIFIED TRUE COPY

MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court

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[41] *Metropolitan Waterworks and Sewerage System v. Central Board of Assessment Appeals*, supra, citing *Metropolitan Waterworks and Sewerage System v. Local Government of Quezon City*, supra, and *Manila International Airport Authority v. Court of Appeals*, supra.

[42] *Philippine Heart Center v. Local Government of Quezon City*, supra.