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THIRD DIVISION

[G.R. No. 205466; January 11, 2021]

BASES CONVERSION AND DEVELOPMENT AUTHORITY, *Petitioner*, *v.* **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

HERNANDO, *J.*:

This Petition for Review[1] assails the October 10, 2012[2] and December 11, 2012[3] Resolutions of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 900[4] which dismissed the Petition for Review filed by petitioner Bases Conversion and Development Authority (BCDA) against respondent Commissioner of Internal Revenue (CIR),[5] and denied BCDA's Motion for Reconsideration,[6] respectively.

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[1] *Rollo*, pp. 3-31.

[2] Id. at 33-36; penned by Presiding Justice Ernesto D. Acosta and concurred in by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla. Associate Justices Erlinda P. Uy and Amelia R. Cotangco-Manalastas, on leave.

[3] Id. at 37-40; penned by Presiding Justice Ernesto D. Acosta and concurred in by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas. Associate Justices Erlinda P. Uy and Olga Palanca-Enriquez, no part.

[4] Id. at 3.

[5] Id. at 36.

[6] Id. at 40.

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Antecedents:

This case involves the question of whether the BCDA is exempt from payment of docket fees before the CTA. The BCDA claims exemption for being a government instrumentality pursuant to Section 22, Rule 141 of the Rules of Court, as amended.[7] The CIR, on the other hand, disputes BCDA's status as a government instrumentality, and therefore posits that it is not exempt from payment.

The undisputed facts are as follows.

On February 16, 2011, BCDA filed *via* registered mail a Petition for Review with Request for Exemption from Payment of Filing Fees (Petition for Review) with the CTA involving its claim for refund against the CIR.[8] The deadline for filing the Petition for Review fell on February 16, 2011.[9]

On March 1, 2011, the BCDA received a letter of even date from Atty. Elvessa P. Apolinario (Atty. Apolinario), CTA's Executive Clerk of Court IV, acknowledging the receipt of the Petition for Review.[10] However, in the same letter, Atty. Apolinario informed the BCDA that she was returning the said Petition for Review as it was not deemed filed without the payment of the correct legal fees:

Dear Atty. Creencia:

Please be advised that we received on February 24, 2011, your Request for Exemption from Payment of Filing Fees with the Petition

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[7] RULES OF COURT, Rule 141, Sec. 22 states:

Section 22. *Government exempt*. The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in the rule. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees.

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[8] *Rollo*, p. 6.

[9] Id. at 5-6.

[10] Id. at 6.

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for Review of Bases Conversion and Development Authority (BCDA) v. Commissioner of Internal Revenue. A similar request was denied by the CTA's First Division in CTA Case No. 8176, entitled "Bases Conversion and Development Authority v. Commissioner of Internal Revenue," pursuant to its Resolutions, promulgated on October 20, 2010 and February 8, 2011. Similarly, the Supreme Court has issued a certification, dated January 20, 2011, addressed to Atty. Theresa G. Cinco-Bactat, Executive Clerk of Court III, stating that the Bases Conversion and Development Authority is not exempt from the payment of legal fees.

In this regard, I am returning the Petition for Review, posted on February 16, 2011, as the same is not deemed filed without payment of the correct legal fees.[11]

Subsequent letters were exchanged between Atty. Apolinario, who insisted that the BCDA was required to pay docket fees, and the BCDA, which maintained otherwise and insisted on its status as a government instrumentality.[12]

On April 7, 2011, the BCDA paid the docket fees under protest.[13]

On December 27, 2011, the CIR filed a Motion to Dismiss[14] the BCDA's Petition for Review on the ground of prescription and/or lack of jurisdiction.[15] The CIR argued that since the deadline to file the Petition for Review was on February 16, 2011, and the docket fees were paid only on April 7, 2011, then the Petition for Review was not filed on time.[16] Thus, the CTA Second Division did not acquire jurisdiction over the case.[17]

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[11] Id. at 148.

[12] Id. at 6.

[13] Id. at 7.

[14] Id. at 162-167.

[15] Id. at 7.

[16] Id. at 163-165.

[17] Id.

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Ruling of the CTA Second Division:

On February 3, 2012, the CTA Second Division resolved the CIR's Motion to Dismiss through a Resolution[18] dismissing the BCDA's Petition for Review for non-payment of docket fees.[19] The CTA Second Division held that timely payment of docket fees was essential before the court can acquire jurisdiction over the case.[20] Since the docket fees were not paid on time, the CTA Second Division did not acquire jurisdiction.[21]

The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the present Petition for Review is hereby **DENIED DUE COURSE**, and, accordingly **DISMISSED** for non-payment of docket fees.

SO ORDERED.[22]

The BCDA moved for reconsideration which was, however, denied by the CTA Second Division.[23] Hence, the BCDA appealed to the CTA *En Banc* through a Petition for Review.[24]

Ruling of the CTA En Banc:

In its assailed October 10, 2012 Resolution, the CTA *En Banc* denied due course to the BCDA's Petition for Review.[25] It affirmed the CTA Second Division's ruling that the court

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[18] Id. at 41-44; penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justice Caesar A. Casanova, Associate Justice Cielito N. Mindaro-Grulla, on official business.

[19] Id. at 44.

[20] Id. at 43.

[21] Id.

[22] Id. at 44.

[23] Id. at 56-63; penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justices Caesar A. Casanova and Cielito N. Mindaro-Grulla.

[24] Id. at 64-85.

[25] Id. at 36.

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acquired no jurisdiction due to the belated payment of docket fees.[26] The CTA *En Banc* rejected the BCDA's argument that it was exempt from payment, citing the Certification dated January 20, 2011 issued by Ma. Lourdes C. Perfecto, Deputy Clerk of Court and Chief of the Judicial Records Office of the Supreme Court, stating that the BCDA was not exempt from paying the legal fees for petitions before the Supreme Court.[27]

The dispositive portion of the resolution reads:

> WHEREFORE, premises considered, the Petition for Review is hereby **DENIED DUE COURSE** for lack of merit and is, accordingly **DISMISSED**.
>
> **SO ORDERED.**[28]

The BCDA once again moved for reconsideration which was, however, denied by the CTA *En Banc* in its December 11, 2012 Resolution for failure to include a notice of hearing in the motion.[29] Hence, this Petition.

Arguments of the BCDA:

BCDA insists that being a government instrumentality, it is exempt from payment of docket fees pursuant to Section 22, Rule 141 of the Rules of Court, as amended.[30] It anchors its status as a government instrumentality on Section 1 of Executive Order No. 596, series of 2006, Republic Act (RA) No. 10149, and this Court's pronouncements in *Manila International Airport Authority v. Court of Appeals* and *Philippine Fisheries Development Authority v. Court of Appeals*,[31] where this Court discussed the nature of Manila International Airport Authority

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[26] Id. at 34-35.

[27] Id. at 35.

[28] Id. at 36.

[29] Id. at 38.

[30] Id. at 14-23.

[31] Id. at 15-18.

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as a government instrumentality and cited the BCDA as among the other government instrumentalities in the country.[32]

As to the lack of notice of hearing in its Motion for Reconsideration, the BCDA argues that such notice is not applicable to the CTA *En Banc* since it is not a trier of fact.[33] Further, the BCDA notes that under the Revised Rules of Court of Tax Appeals, the filing of a motion for reconsideration is only optional.[34] Assuming *arguendo* that a notice of hearing is required, the BCDA requests for liberality from the Court since the motion is on its face meritorious and the interest of substantial justice would be served by giving due course to such motion.[35]

In its Manifestation[36] dated November 6, 2019, the BCDA calls this Court's attention to the promulgation of the June 20, 2018 case of *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*,[37] which involves the same parties and the same issue of the BCDA's exemption from payment of docket fees.[38] In the said case, this Court ruled in favor of the BCDA and pronounced it to be exempt from payment of docket fees pursuant to its status as a government instrumentality[39]

Arguments of the CIR:

In its Comment,[40] the CIR maintains that the BCDA is not exempt from payment of docket fees based on the Certification

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[32] *Rollo*, pp. 14-23.

[33] Id. at 23-24.

[34] Id. at 24.

[35] Id. at 24-25.

[36] Id. at 236-238.

[37] G.R. No. 205925, June 20, 2018.

[38] *Rollo*, pp. 236-238.

[39] Id.

[40] Id. at 193-212.

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dated January 20, 2011.[41] Further, it contends that the notice of hearing is mandatory pursuant to Section 5, Rule 15 of the Rules of Court.[42] Since the Motion for Reconsideration did not contain a notice of hearing, the same was a mere scrap of paper which did not toll the reglementary period for filing an appeal.[43] Thus, the October 10, 2012 Resolution of the CTA *En Banc* already attained finality.[44]

Issues

The Petition raises the following issues:

A. THE CTA *EN BANC* ERRED IN AFFIRMING THE CTA'S SECOND DIVISION'S RESOLUTION DENYING DUE COURSE AND DISMISSING BCDA'S PETITION FOR REVIEW FOR NON PAYMENT OF THE PRESCRIBED DOCKET FEES WITHIN THE REGLEMENTARY PERIOD.

B. THE CTA *EN BANC* ERRED IN RULING THAT BCDA IS NOT EXEMPT FROM PAYMENT OF LEGAL FEES.[45]

Our Ruling

The Petition is meritorious.

The BCDA is a government instrumentality and therefore exempt from payment of docket fees.

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[41] Id. at 197.

[42] Id. at 207. RULES OF COURT, Rule 15, Sec. 4 states:

Section 4. *Hearing of motion.* — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

[43] *Rollo*, p. 208.

[44] Id. at 210.

[45] Id. at 8.

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The resolution of this case hinges on whether the BCDA is a government instrumentality and consequently exempt from payment of docket fees under Section 22, Rule 131 of the Rules of Court, as amended:

> Section 22. *Government exempt*. — **The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in the rule.** Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees. (Emphasis supplied)

Significantly, this issue has already been resolved in *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*,[46] where this Court affirmed BCDA's status as a government instrumentality:

> ***BCDA is a government instrumentality vested with corporate powers. As such, it is exempt from the payment of docket fees.***
>
> At the crux of the present petition is the issue of whether or not BCDA is a government instrumentality or a government-owned and -controlled corporation (GOCC). If it is an instrumentality, it is exempt from the payment of docket fees. If it is a GOCC, it is not exempt and as such non-payment thereof would mean that the tax court did not acquire jurisdiction over the case and properly dismissed it for BCDA's failure to settle the fees on time.
>
> BCDA is a government instrumentality vested with corporate powers. As such, it is exempt from the payment of docket fees required under Section 21, Rule 141 of the Rules of Court, to wit:
>
> **RULE 141**
> **LEGAL FEES**
>
> SEC. 1. *Payment of fees*. — Upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed therefor shall be paid in full.

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[46] Supra, note 37.

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SEC. 21. *Government exempt*. — **The Republic of the Philippines, its agencies and instrumentalities, are exempt from paying the legal fees provided in this rule.** Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees. (Emphasis Ours)

Section 2 (10) and (13) of the Introductory Provisions of the Administrative Code of 1987 provides for the definition of a government "instrumentality" and a "GOCC," to wit:

SEC. 2. *General Terms Defined*. — x x x

(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. x x x

x x x x x x x x x

(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) percent of its capital stock: x x x. (Emphasis Ours)

The grant of these corporate powers is likewise stated in Section 3 of Republic Act (R.A.) No. 7227, also known as the Bases Conversion and Development Act of 1992 which provides for BCDA's manner of creation, to wit:

Sec. 3. *Creation of the Bases Conversion and Development Authority*. — There is hereby created a body corporate to be known as the Bases Conversion and Development Authority, which shall have the attribute of perpetual succession and **shall be vested with the powers of a corporation**. (Emphasis Ours)

From the foregoing, it is clear that a government instrumentality may be endowed with corporate powers and at the same time retain

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its classification as a government "instrumentality" for all other purposes.

In the 2006 case of *Manila International Airport Authority v. CA*, the Court, speaking through Associate Justice Antonio T. Carpio, explained in this wise:

> 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. However, they are not [GOCCs] in the strict sense as understood under the Administrative Code, which is the governing law defining the legal relationship or status of government entities.

Moreover, in the 2007 case of *Philippine Fisheries Development Authority v. CA*, the Court reiterated that a government instrumentality retains its classification as such *albeit* having been endowed with some if not all corporate powers. The relevant portion of said decision reads as follows:

> Indeed, the Authority is not a GOCC but an instrumentality of the government. The Authority has a capital stock but it is not divided into shares of stocks. Also, it has no stockholders or voting shares. Hence, it is not a stock corporation. Neither is it a non-stock corporation because it has no members.
>
> The Authority is actually a national government instrumentality which is define[d] as an 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. When the law vests in a government instrumentality corporate powers, the instrumentality does not become a corporation. Unless the government instrumentality is organized

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> as a stock or non-stock corporation, it remains a government instrumentality exercising not only governmental but also corporate powers.

As previously mentioned, in order to qualify as a GOCC, one must be organized either as a stock or non-stock corporation. Section 3 of the Corporation Code defines a stock corporation as one whose "capital stock is divided into shares and x x x authorized to distribute to the holders of such shares dividends x x x."

Section 6 of R.A. No. 7227 provides for BCDA's capitalization, to wit:

> Sec. 6. *Capitalization*. — The Conversion Authority shall have an authorized capital of One hundred billion pesos (P100,000,000,000.00) which may be fully subscribed by the Republic of the Philippines and shall either be paid up from the proceeds of the sales of its land assets as provided for in Section 8 of this Act or by transferring to the Conversion Authority properties valued in such amount.
>
> An initial operating capital in the amount of seventy million pesos (P70,000,000.00) is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated which shall be covered by preferred shares of the Conversion Authority retireable within two (2) years.

Based on the foregoing, it is clear that BCDA has an authorized capital of Php100 Billion, however, it is not divided into shares of stock. BCDA has no voting shares. There is likewise no provision which authorizes the distribution of dividends and allotments of surplus and profits to BCDA's stockholders. Hence, BCDA is not a stock corporation.

Section 8 of R.A. No. 7227 provides an enumeration of BCDA's purposes and their corresponding percentage shares in the sales proceeds of BCDA. Section 8 likewise states that after distribution of the proceeds acquired from BCDA's activities, the balance, if any, shall accrue and be remitted to the National Treasury, to wit:

> **Sec. 8.** *Funding Scheme*. — The capital of the Conversion Authority shall come from the sales proceeds and/or transfers of certain Metro Manila military camps, including all lands covered by Proclamation No. 423, series of 1957, commonly

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known as Fort Bonifacio and Villamor (Nicholas) Air Base x x x.

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The President is hereby authorized to sell the above lands, in whole or in part, which are hereby declared alienable and disposable pursuant to the provisions of existing laws and regulations governing sales of government properties: provided, that no sale or disposition of such lands will be undertaken until a development plan embodying projects for conversion shall be approved by the President in accordance with paragraph (b), Sec. 4, of this Act. However, six (6) months after approval of this Act, the President shall authorize the Conversion Authority to dispose of certain areas in Fort Bonifacio and Villamor as the latter so determines. The Conversion Authority shall provide the President a report on any such disposition or plan for disposition within one (1) month from such disposition or preparation of such plan. **The proceeds from any sale**, after deducting all expenses related to the sale, of portions of Metro Manila military camps as authorized under this Act, **shall be used for the following purposes with their corresponding percent shares of proceeds**:

(1) Thirty-two and five-tenths percent (35.5%) — To finance the transfer of the AFP military camps and the construction of new camps, the self-reliance and modernization program of the AFP, the concessional and long-term housing loan assistance and livelihood assistance to AFP officers and enlisted men and their families, and the rehabilitation and expansion of the AFP's medical facilities;

(2) Fifty percent (50%) — To finance the conversion and the commercial uses of the Clark and Subic military reservations and their extensions;

(3) Five percent (5%) — To finance the concessional and long-term housing loan assistance for the homeless of Metro Manila, Olongapo City, Angeles City and other affected municipalities contiguous to the base areas as mandated herein; and

(4) **The balance shall accrue and be remitted to the National Treasury** to be appropriated thereafter by Congress for the

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> sole purpose of financing programs and projects vital for the economic upliftment of the Filipino people. (Emphasis Ours)

The remaining balance, if any, from the proceeds of BCDA's activities shall be remitted to the National Treasury. The National Treasury is not a stockholder of BCDA. Hence, none of the proceeds from BCDA's activities will be allotted to its stockholders.

BCDA also does not qualify as a non-stock corporation because it is not organized for any of the purposes mentioned under Section 88 of the Corporation Code, to wit:

> **Sec. 88.** *Purposes*. — Non-stock corporations may be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this Title governing particular classes of non-stock corporations.

A cursory reading of Section 4 of R.A. No. 7227 shows that BCDA is organized for a specific purpose — to own, hold and/or administer the military reservations in the country and implement its conversion to other productive uses, to wit:

> **Sec. 4.** *Purposes of the Conversion Authority*. — The Conversion Authority shall have the following purposes:
>
> (a) **To own, hold and/or administer the military reservations** of John Hay Air Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station, Mt. Sta. Rita Station (Hermosa, Bataan) and those portions of Metro Manila military camps which may be transferred to it by the President;
>
> (b) **To adopt, prepare and implement a comprehensive and detailed development plan** embodying a list of projects including but not limited to those provided in the Legislative-Executive Bases Council (LEBC) framework plan **for the sound and balanced conversion of the Clark and Subic military reservations and their extensions** consistent with ecological and environmental standards into other productive uses to promote the economic and social development of Central Luzon in particular and the country in general;

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(c) **To encourage the active participation of the private sector in transforming the Clark and Subic military reservations and their extensions into other productive uses**;

(d) **To serve as the holding company of subsidiary companies** created pursuant to Section 16 of this Act and to invest in Special Economic Zones declared under Sections 12 and 15 of this Act;

(e) **To manage and operate through private sector companies developmental projects** outside the jurisdiction of subsidiary companies and Special Economic Zones declared by presidential proclamations and established under this Act;

(f) **To establish a** [*sic*] **mechanisms in coordination with the appropriate local government units to effect meaningful consultation regarding the plans, programs and projects within the regions** where such plans, programs and/or projects development are part of the conversion of the Clark and Subic military reservations and their extensions and the surrounding communities as envisioned in this Act; and

(g) **To plan, program and undertake the readjustment, relocation, or resettlement of population within the Clark and Subic military reservations and their extensions** as may be deemed necessary and beneficial by the Conversion Authority, in coordination with the appropriate government agencies and local government units. (Emphases Ours)

From the foregoing, it is clear that BCDA is neither a stock nor a non-stock corporation. BCDA is a government instrumentality vested with corporate powers. Under Section 21, Rule 141 of the Rules of Court, agencies and instrumentalities of the Republic of the Philippines are exempt from paying legal or docket fees. Hence, BCDA is exempt from the payment of docket fees.[47] (Citations omitted.)

As extensively discussed above, the BCDA is a government instrumentality because it falls under the definition of an instrumentality under the Administrative Code of 1987, *i.e.*, "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

[47] Id.

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powers, administering special funds, and enjoying operational autonomy, usually through a charter."[48] It is vested with corporate powers under Section 3 of RA No. 7227.[49] Despite having such powers, however, the BCDA is considered neither a stock corporation because its capital is not divided into shares of stocks, nor a non-stock corporation because it is not organized for any of the purposes mentioned under Section 88 of the Corporation Code. Instead, the BCDA is a government instrumentality organized for the specific purpose of owning, holding and/or administering the military reservations in the country and implementing their conversion to other productive uses.[50]

Being a government instrumentality, the BCDA is exempt from payment of legal fees including docket fees pursuant to Section 22, Rule 141 of the Rules of Court, as amended. Thus, it was erroneous for the CTA *En Banc* to affirm the CTA Second Division's dismissal of the BCDA's Petition for Review. That the BCDA belatedly filed the docket fees did not strip the CTA Second Division of jurisdiction as it was exempt from payment in the first place.

A notice of hearing is required in BCDA's Motion for Reconsideration.

In its Petition, the BCDA argues that a notice of hearing is not required in motions before the CTA *En Banc*.[51] This argument is unmeritorious. Section 5, Rule 2 of the Revised Rules of Procedure of the CTA expressly requires a notice to the parties

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[48] REVISED ADMINISTRATIVE CODE, Introductory Provisions, Sec. 2 (10).

[49] Section 3 of Republic Act No. 7227 provides:

Section 3. *Creation of the Bases Conversion and Development Authority*. — There is hereby created a body corporate to be known as the Bases Conversion and Development Authority, which shall have the attribute of perpetual succession and **shall be vested with the powers of a corporation**. (Emphasis supplied.)

[50] Section 4 of Republic Act No. 7227.

[51] *Rollo*, pp. 23-25.

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of the hearings conducted by the CTA *En Banc*.[52] Specifically for motions for reconsideration, Section 3, Rule 15 of the same requires the notice to be set for hearing.[53] Suppletorily, notice of hearing is likewise required under Sections 4 and 5, Rule 15 of the Rules of Court.[54] Thus, the BCDA was required to include a notice of hearing in its Motion for Reconsideration. That the filing of the motion is optional did not excuse non-compliance since the BCDA opted to file such motion.

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[52] REVISED RULES OF PROCEDURE OF THE CTA, Rule 2, Sec. 5 states:

Section 5. *Hearings*. — The Court *en banc* or in Divisions shall conduct hearings on such days and at such times and at such places as it may fix, with notice to the parties concerned. However, the Friday of each week shall be devoted to hearing motions, unless, for special reasons, the Court *en banc* or in Divisions shall, *motu proprio* or upon motion of a party, fix another day for the hearing of any motion.

[53] REVISED RULES OF PROCEDURE OF THE CTA, Rule 15, Secs. 3 and 6 state:

Section 3. *Hearing of the motion*. — The motion for reconsideration or new trial, as well as the opposition thereto, shall embody all supporting arguments and **the movant shall set the same for hearing on the next available motion day**. Upon the expiration of the period set forth in the next preceding section, without any opposition having been filed by the other party, the motion for reconsideration or new trial shall be considered submitted for resolution, unless the Court deems it necessary to hear the parties on oral argument, in which case the Court shall issue the proper order.

Section 6. *Contents of Motion for Reconsideration or New Trial and Notice*. — The motion shall be in writing stating its grounds, **a written notice of which shall be served by the movant on the adverse party**.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma*, which shall not toll the reglementary period for appeal. (Emphasis supplied.)

[54] RULES OF COURT, Rule 15, Secs. 4 and 5 state:

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The importance of notice of hearing cannot be overemphasized. It is intended to "prevent surprise and to afford the adverse party a chance to be heard before the motion is resolved by the court."[55] This is in keeping with the fundamental principle of procedural due process.[56] "Where a motion has no notice of hearing, it is considered *pro forma* and does not affect the reglementary period for the filing of the requisite pleading."[57]

Nevertheless, it is also well-settled that procedural rules may be relaxed when a "stringent application of [the same] would hinder rather than serve the demands of substantial justice."[58] This is because "rules of procedure must be viewed as mere tools designed to facilitate the attainment of justice."[59] "Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must be avoided."[60]

Section 4. *Hearing of motion*. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Section 5. *Notice of hearing*. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

[55] *Mendez v. Shari'a District Court*, 777 Phil. 143, 167 (2016), citing *Leobrera v. Court of Appeals*, 252 Phil. 737, 743 (1989).

[56] *Festin v. Zubiri*, 811 Phil. 1, 10 (2017), citing *Boiser v. Aguirre, Jr.*, 497 Phil. 728, 734-735 (2005) and *Neri v. Dela Peña*, 497 Phil. 73, 80-81 (2005).

[57] *The Manila Banking Corp. v. Bases Conversion and Development Authority*, 824 Phil. 193, 210 (2018), citing *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166, ____ (2005).

[58] *B.E. San Diego, Inc. v. Bernardo*, G.R. No. 233135, December 5, 2018.

[59] *Heirs of Spouses Arcilla v. Teodoro*, 583 Phil. 540, 553 (2008), citing *Barnes v. Padilla*, 500 Phil. 303 (2005).

[60] Id.

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Considering the special circumstances in this case, the Court deems it appropriate to relax the technical rules of procedure. Undoubtedly, the promulgation of *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*[61] removed all doubts as to the BCDA's status as a government instrumentality. The interest of substantial justice would be better served by allowing the BCDA, which has consistently maintained a well-grounded position, to obtain relief from the erroneous rulings of the CTA.

All told, the BCDA is a government instrumentality vested with corporate powers. As such, it is exempt from payment of docket fees pursuant to Section 22, Rule 141 of the Rules of Court, as amended.

WHEREFORE, the Petition is hereby **GRANTED**. The October 10, 2012 and December 11, 2012 Resolutions of the CTA *En Banc* are hereby **REVERSED** and **SET ASIDE**. This case is **REMANDED** to the Court of Tax Appeals for further proceedings in CTA Case No. 8263. No pronouncement as to costs.

SO ORDERED.

Leonen (Chairperson), Inting, Delos Santos, and *Rosario, JJ.*, concur.

[61] Supra, note 36.