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WHEREFORE, the Petition for Certiorari is **GRANTED**. The assailed January 11, 2012 Decision, June 28, 2012 Resolution, July 17, 2012 Resolution, and August 15, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 95701 are **NULLIFIED**. The July 8, 2010 Decision of the Municipal Circuit Trial Court of Paoay-Currimao, Ilocos Norte in Land Reg. Case No. N-4 is **REINSTATED**.

SO ORDERED.

Peralta (*Chairperson*), *Reyes, A. Jr.,*[*] *Gesmundo*, and *Reyes, J. Jr., JJ*., concur.

THIRD DIVISION

[G.R. No. 210736. September 5, 2018]

HERARC REALTY CORPORATION, *petitioner, vs.* **THE PROVINCIAL TREASURER OF BATANGAS, THE PROVINCIAL ASSESSOR OF BATANGAS, THE MUNICIPAL ASSESSOR AND MUNICIPAL TREASURER OF CALATAGAN, BATANGAS, DR. RAFAEL A. MANALO, GRACE OLIVA, and FREIDA RIVERA YAP,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; REPUBLIC ACT NO. 1125 (AS AMENDED BY REPUBLIC ACT NO. 9282); COURT OF TAX APPEALS; HAS EXCLUSIVE APPELLATE JURISDICTION TO REVIEW BY APPEAL THE

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[*] Designated Acting member per Special Order No. 2588 dated August 28, 2018.

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DECISIONS, ORDERS, OR RESOLUTIONS OF THE REGIONAL TRIAL COURT IN LOCAL TAX CASES; CASE AT BAR.— Petitioner's direct recourse to the RTC is warranted since the issue of the legality or validity of the assessment is a question of law. However, as a taxpayer not satisfied with the RTC decision, it should have filed a petition for review before the Court of Tax Appeals *(CTA)*. The decision, ruling or resolution of the CTA, sitting as Division, may further be reviewed by the CTA *En Banc*. It is only after this procedure has been exhausted that the case may be elevated to this Court. Under Section 7 (a) (3) of Republic Act *(R.A.)* No. 9282, the appellate jurisdiction of the CTA over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on a local tax case, *i.e.,* one which is in the nature of a tax case or which primarily involves a tax issue.

2. **ID.; APPEALS; PERFECTION OF AN APPEAL IN THE MANNER AND WITHIN THE PERIOD PERMITTED BY LAW IS MANDATORY AND JURISDICTIONAL SUCH THAT FAILURE TO DO SO RENDERS THE JUDGMENT OF THE COURT FINAL AND EXECUTORY; CASE AT BAR.—** Evidently, petitioner erred in its appeal. If the taxpayer fails to appeal in due course, the right of the local government to collect the taxes due with respect to the property becomes absolute upon the expiration of the period to appeal. The assessment becomes final, executory and demandable, precluding the taxpayer from assailing the legality/validity (or reasonableness/correctness) of the assessment. Time and again, the Court stresses that perfection of an appeal in the manner and within the period permitted by law is mandatory and jurisdictional such that failure to do so renders the judgment of the court final and executory. The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.

3. **TAXATION; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXES; PERSONAL LIABILITY FOR THE TAX DELINQUENCY IS GENERALLY ON WHOEVER IS THE OWNER OF THE REAL PROPERTY AT THE TIME THE TAX ACCRUES; WHERE THE TAX LIABILITY IS IMPOSED ON THE BENEFICIAL USE OF**

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THE REAL PROPERTY, SUCH AS THOSE OWNED BUT LEASED TO PRIVATE PERSONS OR ENTITIES BY THE GOVERNMENT, OR WHEN THE ASSESSMENT IS MADE ON THE BASIS OF THE ACTUAL USE THEREOF, THE PERSONAL LIABILITY IS ON ANY PERSON WHO HAS SUCH BENEFICIAL OR ACTUAL USE AT THE TIME OF THE ACCRUAL OF THE TAX.— Even if this case is resolved on its substantive merit, the disposition remains the same. As the RTC correctly opined, in real estate taxation, the unpaid tax attaches to the property. The personal liability for the tax delinquency is generally on whoever is the owner of the real property at the time the tax accrues. This is a necessary consequence that proceeds from the fact of ownership. Nonetheless, where the tax liability is imposed on the beneficial use of the real property, such as those owned but leased to private persons or entities by the government, or when the assessment is made on the basis of the actual use thereof, the personal liability is on any person who has such beneficial or actual use at the time of the accrual of the tax. Beneficial use means that the person or entity has the *use and possession* of the property. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.

4. **ID.; ID.; ID.; EXEMPTIONS; TAX EXEMPTION OF REAL PROPERTY OWNED BY THE REPUBLIC, ITS POLITICAL SUBDIVISIONS, AGENCIES OR INSTRUMENTALITIES CEASES IF THE BENEFICIAL USE OF THE REAL PROPERTY HAS BEEN GRANTED, FOR CONSIDERATION OR OTHERWISE, TO A TAXABLE PERSON; CASE AT BAR.—** As a general rule, real properties are subject to the RPT since the LGC has withdrawn exemptions from real property taxes of all persons, whether natural or juridical. Entities may be exempt from payment of the RPT if their charters, which were enacted or reenacted after the effectivity of the LGC, exempt them payment of the RPT. Likewise, exceptions to the rule are provided in Section 133(o) of the LGC, which states that local government units have no power to levy taxes of any kind on the national government, its agencies and instrumentalities and local government units. Particularly on the RPT, Section 234 enumerates the persons and real property exempt therefrom.

> The tax exemption of real property owned by the Republic, its political subdivisions, agencies or instrumentalities carries, however, ceases if the beneficial use of the real property has been granted, for a consideration or otherwise, to a taxable person. In such case, the corresponding liability for the payment of the RPT devolves on the taxable beneficial user. As applied in subsequent cases, it is in this context that our ruling in *Testate Estate of Concordia T. Lim* should be understood. Moreover, in said case, the taxpayer that was being assessed with the unpaid RPT was neither the registered owner nor the possessor of the subject property when the tax became due and demandable. In contrast, petitioner herein, an entity that is not tax exempt under the law, is the registered owner of the real property. Therefore, it is personally liable for the RPT at the time it accrued.

APPEARANCES OF COUNSEL

Herrera Teehankee & Cabrera for petitioner.
Somera Peñano & Associates for private respondents.
Office for Legal Services, Province Government of Batangas for public respondents.

D E C I S I O N

PERALTA, *J.*:

This petition for review on *certiorari* under Rule 45 of the Rules of Court *(Rules)* seeks to reverse and set aside the November 18, 2013 Decision[1] and January 7, 2014 Resolution[2] of the Regional Trial Court *(RTC),* Branch 8, Pallocan West, Batangas City in Civil Case No. 9428, which held that petitioner Herarc Realty Corporation is liable to pay the deficiency real property tax for the years 2007, 2008, and January to August 12, 2009.

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[1] Penned by Presiding Judge Ernesto L. Marajas; *rollo,* pp. 111-117, 422-427.

[2] *Rollo,* pp. 118-120, 435-437.

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Stripped of non-essentials, the facts of the present controversy are simple and undisputed.

Upon acquisition *via* execution sale in August 2004, thirteen (13) parcels of land located in Sta. Ana, Calatagan, Batangas are registered since 2006 in the name of petitioner Herarc Realty Corporation under Transfer Certificate of Title *(TCT)* Nos. T-105907 to T-105919 *(subject property).* From March 2, 2006 up to August 12, 2009, the Subject Property had been in actual possession of private respondents Dr. Rafael A. Manalo, Grace Oliva, and Freida Rivera Yap in their capacity as assignees in an involuntary insolvency proceeding against the Spouses Rosario and Saturnino Baladjay pending before the Muntinlupa City RTC Br. 204.[3] It was only on August 13, 2009 that petitioner was able to take full possession and control of the subject property by virtue of the July 31, 2009 Order of the Makati City RTC Br. 56 granting the issuance of a writ of execution, which, in turn, was based on the final and executory Decision of the Court of Appeals in CA- G.R. SP Nos. 93818 and 93823.[4]

In a letter dated October 9, 2012, public respondent Provincial Treasurer of Batangas sent to petitioner a Statement of Real Property Tax *(RPT)* Liabilities to collect the amount of ₱8,093,256.89, which included the unpaid RPT on the subject property for 2007, 2008, and January to August 2009 *(covered period).*[5] The demand was reiterated in letters dated October 23, 2012 and November 21, 2012.[6]

The assessment was paid under protest on November 20, 2012.[7] Less than a month after, petitioner filed a petition for prohibition and *mandamus*[8] against respondents, praying the trial court to:

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[3] *Id.* at 384-397, 404, 474.

[4] *Id.* at 123-144.

[5] *Id.* at 150-154, 163-166.

[6] *Id.* at 159, 168, 473.

[7] *Id.* at 160-162.

[8] *Id.* at 438-472.

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i. [declare], as null and void, the assessments for unpaid real property taxes made against Petitioner Herarc over the Subject Property for the years 2007, 2008 until 12 August 2009;

ii. [declare], the questioned assessments to be chargeable against Dr. Rafael Manalo, et al., they being in possession of the Subject Property [during] the [Covered] Period;

iii. [require] Public Respondents to issue the corresponding tax clearances in favor of Petitioner Herarc for the Subject Property over the period beginning 2007 up to 2012; and

iv. [require] Public Respondents to refund Petitioner Herarc of whatever amount it has paid under protest that is in excess of the real property taxes legally chargeable against Petitioner Herarc.[9]

For petitioner, the RPT assessment is illegal and erroneous, because the subject property was not in its possession during the covered period. Citing *Testate Estate of Concordia T. Lim v. City of Manila*[10] and *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila,*[11] which ruled that unpaid tax 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, it contended that private respondents should be the one charged therefor as they had its actual or beneficial use and possession at the time.

On November 18, 2013, the RTC denied the petition. In ruling that petitioner is liable to pay the RPT for the covered period, it held:

While it may be true that[,] as stated by the Honorable Supreme Court[,] 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, it does not follow that the position of the Provincial Treasurer does not [hold]

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[9] *Id.* at 464-465.

[10] 261 Phil. 602 (1990).

[11] 623 Phil. 964 (2009).

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true. The doctrine laid down by the Honorable Supreme Court as mentioned by the [herein] Petitioner to substantiate one's position has been predicated on the theory that the registered owner is a tax exempt entity.

In this case under consideration[,] the registered owner is a juridical person subject to tax. Logic dictates that the pronouncement made by the Supreme Court in the two case[s] quoted by Herarc Realty Corporation is not applicable in this case under consideration.

An entity not exempt from payment of taxes must be responsible for the payment of the deficiency taxes under the theory that unpaid taxes attach to the land. This may be the reason why the doctrine of beneficial user of the property owned by tax exempt entity must be answerable for the payment of real property taxes on the real estate property owned by tax exempt entity.

It may be appropriate to state that this rule of law has been modified in the case of City of Pasig versus Republic of the Philippines, G.R. No. 185023, August 24, 2011[.] The Highest Magistrate of the Land made a pronouncement — In sum, only those portions of the properties leased to taxable entities are subject to real estate tax for the period of such leases. Pasig City must, therefore, issue to respondent new real property tax assessments covering the portions of the properties leased to taxable entities. If the Republic of the Philippines fails to pay the real property tax on the portions of the properties leased to taxable entities, then such portions may be sold at public auction to satisfy the tax delinquency.

An [in-depth] examination of the doctrine of the Premier Magistrate of the Philippines in the case of Pasig versus Republic of the Philippines cited above, the owner of the real estate property must be the one who would be responsible for the payment of real property tax if the beneficial user failed to pay the required real property tax. It goes without saying that the Petition filed by Herarc Realty Corporation has to be denied.[12]

When its motion for reconsideration was denied on January 7, 2014, petitioner directly filed before Us a Rule 45 petition.

We deny.

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[12] *Rollo,* pp. 114-116, 424-426.

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Petitioner's direct recourse to the RTC is warranted since the issue of the legality or validity of the assessment is a question of law.[13] However, as a taxpayer not satisfied with the RTC decision, it should have filed a petition for review before the Court of Tax Appeals *(CTA).*[14] The decision, ruling or resolution of the CTA, sitting as Division, may further be reviewed by the CTA *En Banc.*[15] It is only after this procedure has been exhausted that the case may be elevated to this Court.

Under Section 7 (a) (3) of Republic Act *(R.A.)* No. 9282,[16] the appellate jurisdiction of the CTA over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on a local tax case, *i.e.,* one which is in the nature of a tax case or which primarily involves a tax issue.[17] Local tax cases include those involving RPT, which is governed by Book II, Title II of R.A No. 7160, or *Local Government Code (LGC)* of 1991.[18] Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed

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[13] See *National Power Corp. v. Municipal Government of Navotas, et al.,* 747 Phil. 744, 756 (2014).

[14] *National Power Corp. v Municipal Government of Navotas, et al., supra.*

[15] *Id.*

[16] R.A. No. 9282, which was passed into law on March 30, 2004 and took effect on April 23, 2004, amended Section 7 of R.A. No. 1125. It provides:

> SEC. 7. Section 7 of the same Act is hereby amended to read as follows:
>
> SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> x x x x x x x x x
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[.]

[17] *Ignacio v. Office of the City Treasurer of Quezon City,* G.R. No. 221620, September 11, 2017.

[18] *Salva v. Magpile,* G.R. No. 220440, November 8, 2017 and *Ignacio v. Office of the City Treasurer of Quezon City, supra.*

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assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.[19]

Evidently, petitioner erred in its appeal. If the taxpayer fails to appeal in due course, the right of the local government to collect the taxes due with respect to the property becomes absolute upon the expiration of the period to appeal.[20] The assessment becomes final, executory and demandable, precluding the taxpayer from assailing the legality/validity (or reasonableness/correctness) of the assessment.[21]

Time and again, the Court stresses that perfection of an appeal in the manner and within the period permitted by law is mandatory and jurisdictional such that failure to do so renders the judgment of the court final and executory.[22] The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[23]

Even if this case is resolved on its substantive merit, the disposition remains the same. As the RTC correctly opined, in real estate taxation, the unpaid tax attaches to the property.[24]

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[19] *Ignacio v. Office of the City Treasurer of Quezon City, supra* note 17.

[20] *FELS Energy, Inc. v. The Province of Batangas,* 545 Phil. 92, 107-108 (2007).

[21] *Id.* at 108.

[22] *Puyat Steel Corp. v. Central Board of Assessment Appeals* (Notice), G.R. No. 174351, February 18, 2015 and *FELS Energy, Inc. v. The Province of Batangas, supra* note 20, at 108.

[23] *Puyat Steel Corp. v. Central Board of Assessment Appeals* (Notice), *supra* note 22.

[24] *Testate Estate of Concordia T. Lim v. City of Manila,* 261 Phil. 602, 607 (1990), as cited in *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila,* 623 Phil. 964, 982 (2009); *National Power Corp. v. Province of Quezon, et al.,* 610 Phil. 456, 467 (2009); *Republic*

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The personal liability for the tax delinquency is generally on whoever is the owner of the real property at the time the tax accrues.[25] This is a necessary consequence that proceeds from the fact of ownership.[26] Nonetheless, where the tax liability is imposed on the beneficial use of the real property, such as those owned but leased to private persons or entities by the government, or when the assessment is made on the basis of the actual use thereof, the personal liability is on any person who has such beneficial or actual use at the time of the accrual of the tax.[27] Beneficial use means that the person or entity has the *use and possession* of the property.[28] Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.[29]

As a general rule, real properties are subject to the RPT since the LGC has withdrawn exemptions from real property taxes of all persons, whether natural or juridical.[30] Entities may be exempt from payment of the RPT if their charters, which were enacted or reenacted after the effectivity of the LGC, exempt

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of the Philippines v. City of Kidapawan, 513 Phil. 440, 447 (2005); *Manila Electric Co. v. Barlis,* 477 Phil. 12, 37 (2004); and *Manila Electric Co. v. Barlis,* 410 Phil. 167, 178 (2001).

[25] *National Power Corp. v. Province of Quezon, et al., supra* note 24 and *Republic of the Philippines v. City of Kidapawan, supra* note 24, at 452.

[26] *National Power Corp. v. Province of Quezon, et al., supra* note 24.

[27] *Republic of the Philippines v. City of Kidapawan, supra* note 24 at, 452. See also *National Power Corp. v. Province of Quezon, et al., supra* note 24.

[28] See *National Power Corporation v. Province of Quezon, et al.,* 624 Phil. 738, 745 (2010).

[29] Section 199 (b) of the LGC. See also *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila, supra* note 24, at 983, citing *Republic of the Philippines v. City of Kidapawan, supra* note 24, at 449.

[30] *City of Lapu-Lapu v. Philippine Economic Zone Authority,* 748 Phil. 473,537 (2014).

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them payment of the RPT.[31] Likewise, exceptions to the rule are provided in Section 133(o)[32] of the LGC, which states that local government units have no power to levy taxes of any kind on the national government, its agencies and instrumentalities and local government units. Particularly on the RPT, Section 234[33] enumerates the persons and real property

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[31] See *City of Lapu-Lapu v. Philippine Economic Zone Authority, supra,* at 750.

[32] Sec. 133 (o) of the LGC states:

Section 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 shall not extend to the levy of the following:

x x x x x x x x x

(o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.

[33] Sec. 234 of the LGC mandates:

Section 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;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or -controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby withdrawn upon the effectivity of this Code.

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exempt therefrom. The tax exemption of real property owned by the Republic, its political subdivisions, agencies or instrumentalities carries, however, ceases if the beneficial use of the real property has been granted, for a consideration or otherwise, to a taxable person. In such case, the corresponding liability for the payment of the RPT devolves on the taxable beneficial user.[34] As applied in subsequent cases,[35] it is in this context that our ruling in *Testate Estate of Concordia T. Lim*[36] should be understood. Moreover, in said case, the taxpayer that was being assessed with the unpaid RPT was neither the registered owner nor the possessor of the subject property when the tax became due and demandable. In contrast, petitioner herein, an entity that is not tax exempt under the law, is the registered owner of the real property. Therefore, it is personally liable for the RPT at the time it accrued.

WHEREFORE, premises considered, the petition for review on *certiorari* under Rule 45 of the Rules of Court, which seeks to reverse and set aside the November 18, 2013 Decision and January 7, 2014 Resolution of the Regional Trial Court, Branch 8, Pallocan West, Batangas City, is **DENIED.**

SO ORDERED.

Leonen, Gesmundo, Reyes, A. Jr., and *Reyes, J. Jr.,*[*] *JJ.,* concur.

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[34] See *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila,* 623 Phil. 964, 985 (2009).

[35] See *City of Pasig v. Republic,* 671 Phil. 791 (2011); *Government Service Insurance System v. City Treasurer and City Assessor of the City of Manila,* 623 Phil. 964 (2009); *Republic of the Philippines v. City of Kidapawan,* 513 Phil. 440 (2005); *Manila Electric Co. v. Barlis,* 477 Phil. 12 (2004); and *Manila Electric Co. v. Barlis,* 410 Phil. 167 (2001).

[36] *Supra* note 24.

[*] Designated additional member per Special Order No. 2588 dated August 28, 2018.