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EN BANC

[G.R. No. 211299; June 28, 2022]

LIGHT RAIL TRANSIT AUTHORITY, *Petitioner*, *v.* **CITY OF PASAY, represented by the CITY TREASURER and the CITY ASSESSOR,** *Respondent*.

D E C I S I O N

HERNANDO, *J.*:

Before this Court is a Petition[1] under Rule 45 of the Rules of Court, seeking to set aside the October 8, 2013 Decision[2] and the January 29, 2014 Resolution[3] of the Court of Appeals (CA) CA-G.R. SP No. 129922.

The facts of the case are as follows:

From 1985 to 2001, the City of Pasay (City) assessed the Light Rail Transit Authority (LRTA) of real estate taxes on its properties consisting of lands, buildings, machineries, carriageways, and passenger terminal stations. LRTA admitted its tax liabilities and proposed to pay them on installment basis. It even requested for condonation of penalties on its arrears.[4]

However, LRTA failed to settle its outstanding obligations despite repeated demands from the City, which later issued a notice of delinquency with warrants of levy. Aggrieved, LRTA filed a Petition for *Certiorari*, Prohibition and *Mandamus*[5] against

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1 *Rollo*, pp. 3-24.

2 Id. at 25-28. Penned by Associate Justice Mario V. Lopez (now a Member of the Court) and concurred in by Associate Justice Jose C. Reyes (a retired Member of the Court) and Associate Justice Socorro B. Inting.

3 Id. at 29. Penned by Associate Justice Mario V. Lopez (now a Member of the Court) and concurred in by Associate Justice Jose C. Reyes (a retired Member of the Court) and Associate Justice Socorro B. Inting.

4 Id. at 25.

5 Id. at 26.

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the City, questioning its assessments before the Regional Trial Court (RTC) of Pasay, docketed as R-PSY-12-09347-CV.[6]

Citing the 2006 case of *Manila International Airport Authority v. Court of Appeals*[7] *(2006 MIAA Case)*, LRTA claimed that it is a government instrumentality exempt from local taxation. It is operating the light rail transit system for the Republic of the Philippines, which is the true owner of the subject real properties. It also invoked the ruling in *Ty v. Trampe*[8] *(Ty)*, which permitted immediate resort to judicial action without exhaustion of administrative remedies.[9]

Ruling of the Regional Trial Court

In its Resolution/Order[10] dated January 3, 2013, the RTC of Pasay City, Branch 109, dismissed the Petition for *Certiorari*, Prohibition and *Mandamus* for being an improper remedy and for lack of merit, to wit:

> Accordingly, and for reasons above discussed, the said [P]etition for Certiorari, Prohibition and Mandamus under Rule 65 of the Rules of Civil Procedure is ordered as it is hereby ordered **DISMISSED.**
>
> SO ORDERED.[11]

Subsequently, the RTC denied LRTA's Motion for Reconsideration[12] in an Order[13] dated March 7, 2013, *viz.*:

> The Court believes otherwise. The pending incident has long been existing since 1985 to 2003, and to claim that there is no appeal or any other plain, speedy and adequate remedy in the course of law is an admission of lapses and/or estoppel on the part of the movant.

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6 Id.

7 528 Phil. 181 (2006).

8 321 Phil. 81 (1995).

9 Id. at 101-102.

10 Records, pp. 137-139. Penned by Presiding Judge Tingaraan U. Guiling.

11 Id. at 139.

12 Id. at 140-150.

13 Id. at 172-175. Penned by Presiding Judge Tingaraan U. Guiling.

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Nonetheless, so as to open the remedy under Rule 65 of the New Rules of Court, the petitioner should have availed of the Exhaustion of Administrative Remedies and falling so, and/or denied, then the remedy under Rule 65 of the Rules of Court becomes operative on its side.

Accordingly, for no strong or new reasons to have been presented, no additional evidence in support of its motion for reconsideration, the Court believes that there is no cogent and/or urgent reason to depart from its resolution/order dated 3 January 2013, hence, Motion for Reconsideration is ordered as it is hereby ordered DENIED.

SO ORDERED.[14]

LRTA then appealed the RTC's Orders before the CA.[15]

Ruling of the Court of Appeals

On October 8, 2013, the CA denied[16] the appeal of LRTA and affirmed the RTC ruling *in toto*, finding that LRTA has not exhausted all administrative remedies, and that it should not be extended a similar tax exemption accorded to the Manila International Airport Authority (MIAA) in the *2006 MIAA Case*. The CA held that LRTA was already found to be a taxable entity pursuant to the case of *LRTA v. Central Board of Assessment Appeals (2000 LRTA Case)*.[17]

The *fallo* of the CA Decision reads:

FOR THESE REASONS, the appeal is **DENIED**.

SO ORDERED.[18]

Aggrieved by the CA's ruling, LRTA filed a Motion for Reconsideration.[19] However, this motion was denied by the CA in a Resolution[20] dated January 29, 2014.

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[14] Id. at 175.

[15] Id. at 177.

[16] Id. at 25-28.

[17] 396 Phil. 860 (2000).

[18] *Rollo*, p. 28.

[19] CA *rollo*, pp. 123-130.

[20] *Rollo*, p. 29.

Issues

Unperturbed, LRTA filed the instant petition with this Court, alleging the following assignment of errors:

1) The CA erred in ruling that LRTA failed to exhaust administrative remedies before properly resorting to the Courts.

2) The CA erred in ruling that LRTA is a taxable entity as ruled by this Court in the 2000 LRTA Case.

3) The CA erred in not declaring the LRTA a government instrumentality based on the ruling of this Court in the 2006 MIAA Case, and thus exempt from realty taxes.[21]

Our Ruling

The petition is meritorious.

An opportunity to clarify the effects of our ruling in the *2006 MIAA Case* to previous rulings involving similar issues and similarly situated entities presents itself to this Court. The *2006 MIAA Case* is significant as it explained and delineated the difference between government instrumentalities from government-owned and controlled corporations (GOCCs), particularly with regard to how their respective real properties are treated for local real property tax purposes.

At the outset, however, We must first rule on the procedural aspects of this case.

Exhaustion of Administrative Remedies

Both the RTC and the CA dismissed LRTA's petition on the ground that the latter failed to exhaust all administrative remedies before resorting to the courts. The RTC and the CA were in unison in holding that the case of *Ty* being relied upon by LRTA, does not apply in the instant case since the latter was questioning the assessments themselves and not the authority of the city assessor to collect taxes. The CA, in particular, ruled as follows:

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[21] Id. at 7-11.

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LRTA, nonetheless, did not avail of these procedures. It relied on the case of *Ty v. Trampe* in taking exception to the doctrine of primacy of administrative remedies. But the cited authority is incongruent in this case. In Ty, the jurisdiction was properly vested with the trial court because the issue dealt with the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. Moreover, the controversy did not involve questions of fact but only of law. In the present case, the authority of the assessor is not being assailed. Rather, the legality of the assessments is put in issue on account of the LRTA's claim that it is exempt from tax. Corollarily, in *Napocor v. Province of Quezon*, it was held that claiming exemption from realty taxation is simply raising a question of the correctness of the assessment. A claim for tax exemption, whether full or partial, does not question the authority of local assessor to assess real property tax. Verily, the petition filed before the RTC primarily involves the correctness of the assessments, which is a question of fact that is not allowed in a petition for *certiorari*, prohibition and *mandamus*. The RTC therefore appropriately dismissed the petition.[22]

On the other hand, LRTA, in its petition to this Court, argues that the rule on exhaustion of administrative remedies must be set aside in light of our ruling in *Ty*. In particular, LRTA asserts that the instant petition raises primarily questions of law, and thus, the same falls under the exception to the general rule, to wit:

> The circumstances of the instant case impel the disregard of the application of the general rule. In **TY, et al. v. TRAMPE**, the Supreme Court gave due course to the petition for certiorari despite the fact that petitioner therein failed to exhaust administrative remedies. The Supreme Court brushed aside the rule on exhaustion of administrative remedies and gave due course to the petition since the controversy therein does not involve questions of fact but only of law, *i.e.*, whether or not the assessor, acting solely and independently, is authorized/empowered to impose the assessment and the treasurer to collect the tax. It further held that the protest contemplated under Section 252 of RA No. 7160 is needed where there is a question as to the reasonableness of the amount of assessment.[23] (Underscoring in the original)

In the instant case, LRTA is questioning the very authority of the herein respondents to impose and collect real property

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[22] Id. at 27-28.

[23] Id. at 8.

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tax on the properties registered in its name. It never questioned the assessments made by the city assessor or the amounts being collected by the city treasurer. A reading of its original petition would readily show that LRTA, while claiming to be a government instrumentality instead of a government-owned or controlled corporation (GOCC), is questioning the power of the assessor to assess, and the authority of the treasurer to collect, taxes against it.[24]

We rule for LRTA.

In general, where administrative remedies are available, petitions for the issuance of the extraordinary writs should not be granted by the courts in order to give the administrative body the opportunity to decide the matter by itself correctly, and to prevent unnecessary and premature resort to courts. However, this principle of exhaustion of administrative remedies is not without exception.[25]

Jurisprudence would reveal that the Court has set aside such rule: (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 amounting 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**, and (11) when there are circumstances indicating the urgency of judicial intervention.[26]

From the records, it can be clearly seen that the circumstances of the instant case necessitate that We set aside the general rule.

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[24] Records, pp. 2-19.

[25] *Banco de Oro v. Republic*, 750 Phil. 349, 381 (2015).

[26] Id. at 381-382. Emphasis supplied.

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The issues involved in the instant petition are purely legal issues

The issues involved in this petition are purely legal issues. It is evident that from the outset, LRTA primarily intended to question the authority of the tax assessor to impose tax assessments on its property, and the authority of the treasurer to collect said tax, as LRTA claims to be a non-taxable entity. This can be seen when the LRTA deliberately chose to file the remedies of *certiorari*, prohibition and *mandamus*, instead of just filing a protest to contest the amounts in the assessment. Rule 65 of the Rules of Court provides:

RULE 65

Certiorari, Prohibition and *Mandamus*

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Section 2. *Petition for prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

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The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Section 3. *Petition for mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

It must be emphasized that the very nature of a petition under Rule 65 involves questions of jurisdiction. Questions regarding jurisdiction are necessarily legal as the existence or extent of an entity's jurisdiction over a certain subject matter is determined by what is conferred by law.[27] Being a legal question, there was no need for the LRTA to exhaust administrative remedies, even assuming that such remedies exist.

The administrative protest under Section 226 of Republic Act No. (RA) 7160,[28] or the Local Government Code (LGC) is not a plain, speedy and adequate remedy

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[27] *Philippine Coconut Producers Federation, Inc. v. Republic*, 679 Phil. 508, 568 (2012).

[28] Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991." Approved: October 10, 1991.

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Moreover, there are no competent administrative tribunals that may grant the relief that LRTA is seeking. The questions of law interposed in this instant petition may only be appropriately addressed by the courts, and are the proper subjects of a petition for prohibition under Rule 65.

The CA erred in applying the case of *Napocor v. Province of Quezon*[29] *(Napocor)*, as the circumstances in that case drastically differ from the instant case. As correctly pointed out by LRTA in its Motion for Reconsideration before the CA, it has not raised any issue concerning the amount being assessed, but it specifically questioned the authority of the city assessor from the very start.[30]

To put Our pronouncements in *Napocor* in its proper perspective, it must be noted that the petitioners therein were claiming a tax exemption under Section 206 of the LGC, which provides:

> Section 206. *Proof of Exemption of Real Property from Taxation.* - Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.
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> If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.

In claiming such exemption, whether partial or total, We ruled that by holding that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim.[31] In that case, since Napocor was

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[29] 624 Phil. 738, 760-761 (2010).

[30] CA *rollo*, pp. 124-128.

[31] *Napocor v. Province of Quezon*, supra at 741.

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simply questioning the correctness of the assessment, it should have first complied with Section 252 of the LGC, particularly the requirement of payment under protest. Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 thereof without any effect. No protest shall be entertained unless the taxpayer first pays the tax.

In the contrast with *Napocor*, the LRTA, in filing a Petition for *Certiorari*, Prohibition and *Mandamus* with the RTC at the earliest instance, clearly intended to question the local assessor's authority to assess real property taxes on its property and the local treasurer's authority to collect such taxes. The LRTA never invoked Section 206 of the LGC, or even bother to file a protest under Section 252, as the LRTA is not merely claiming tax-exemption on some or all of its properties (which admits the local assessor's authority to assess), but it has been arguing since the beginning that both the city assessor and treasurer do not have the authority to assess and collect local real property tax on its properties, which is similar to what was being claimed in *Ty*.

The provisions of Sections 226 and 229 of RA 7160, being material to this issue, are set forth below:

> Sec. 226. *Local Board of Assessment Appeals.* — Any owner or person having legal interest in the property **who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property** may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.
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> x x x x
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> Section 229. *Action by the Local Board of Assessment Appeals.* -
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> (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

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(b) In the exercise of its appellate jurisdiction, the Board shall have the power to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. **The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts** without necessarily adhering to technical rules applicable in judicial proceedings.

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory. (Emphasis supplied)

Verily, the protest provided for in the above is not an adequate remedy, as such protest is **limited to questioning the assessment itself, and not the authority of the assessor**. Furthermore, it is clear from the above-quoted provisions that proceedings before the Local Board of Assessment Appeals (LBAA) is limited to fact-finding, and there is no indicia under the law that the LBAA has jurisdiction to rule upon the legal issue interposed in the present controversy. It must be emphasized that LRTA is not just "unsatisfied" with the assessments against it, nor is it merely claiming tax exemption on some or all of its properties. Rather, LRTA is questioning, among others, the authority itself of the city assessor to assess its properties for real property tax purposes, given the former's alleged status as a government instrumentality.

The CA was therefore remiss in ruling that the petition entails the examination of facts, as it is evident that the question on the authority/power of the City to levy and collect real property taxes on certain properties of LRTA, in relation to LRTA's legal classification, are clearly legal questions, that only the courts have the competency and jurisdiction to resolve.

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Given the foregoing, We find the application of our ruling in *Ty* to the instant case to be appropriate, and hence, give due course to the petition.

The *2000 LRTA Case* must be reexamined, considering the innovative principles laid down in the *2006 MIAA Case*.

With respect to the substantive portion of the controversy, the Court finds the instant petition to be meritorious.

In dismissing LRTA's petition, the RTC adopted the City's position and relied upon our ruling in the *2000 LRTA Case*. On appeal, the CA maintained a similar posture with the RTC, ruling as follows:

> In any event, LRTA cannot conveniently argue that it should be extended similar exemption accorded to Manila International Airport Authority. Suffice it to say that the Supreme Court had already ruled that LRTA is a taxable entity. Although LRTA's creation was impelled by public service, its operation undeniably partakes of ordinary business. It actually uses the carriageways and terminal stations in its public utility business and earns money therefrom. More importantly, LRTA's charter does not exempt it from any real estate tax. Its exemption is limited to direct and indirect taxes, duties or fees in connection with the importation of equipment not locally available. Thus, absent clear provision exempting LRTA from real estate taxes, We adhere with the doctrine that taxation is the rule and exemption is the exception. Any claim for tax exemption must be strictly construed against the claimant.[32]

On the other hand, LRTA argued that the *2000 LRTA Case*, while involving the same parties, do not involve the same issues as new facts or conditions have intervened before the second suit, furnishing a new basis for its claim and defenses. Hence, the former judgment cannot be pleaded as a bar to the subsequent action.[33]

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[32] *Rollo*, p. 28.

[33] Id. at 10.

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The intervening facts or conditions were not specified in the body of the instant petition, however, it can be easily inferred from the facts that the *2006 MIAA Case*, which was cited by LRTA repeatedly, to be the supervening basis that it is referring to.

The 2015 case of *Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu*, *(2015 MCIAA Case)*,[34] involves a similar situation wherein a previous judgment already declared that the Mactan-Cebu International Airport Authority (MCIAA) is a taxable entity, only to be reversed by this Court based on our pronouncements in the *2006 MIAA Case*. In asserting their right to levy and collect real property taxes on the properties owned by MCIAA, the City of Lapu-Lapu in the *2015 MCIAA Case* relied upon this Court's ruling in the 1996 case of *Mactan-Cebu International Airport Authority (MCIAA) v. Marcos*,[35] *(1996 MCIAA Case)*. However, while it is true that the *1996 MCIAA Case* was cited in a long line of cases, in 2006, the Court, *En Banc*, decided a case that in effect reversed the ruling in the *1996 MCIAA Case*. The Court in the *2015 MCIAA Case* held:

> The 2006 MIAA case had, since the promulgation of the questioned Decision and Resolution, reached finality and had in fact been either affirmed or cited in numerous cases by the Court. The decision became final and executory on November 3, 2006. Furthermore, the 2006 MIAA case was decided by the Court *en banc* while the 1996 MCIAA case was decided by a Division. Hence, the 1996 MCIAA case should be read in light of the subsequent and unequivocal ruling in the 2006 MIAA case.[36]

Likewise, as pointed out by *J.* Dimaampao, LRTA had already been adjudged as a GOCC—hence a taxable entity—in the *2000 LRTA Case*. Even after the *2006 MIAA Case*, several cases still identified LRTA as a GOCC,[37] although it must be noted that these

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[34] *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, 759 Phil. 296 (2015).

[35] *Mactan-Cebu International Airport Authority v. Marcos*, 330 Phil. 392 (1996).

[36] *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, supra at 334-335.

[37] See *Light Rail Transit Authority v. Alvarez*, 801 Phil. 40 (2016); *Light Rail Transit Authority v. Mendoza*, 767 Phil. 458 (2015); *Light Rail Transit*

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cases do not involve issues related to its status as an entity and its tax liability.

It was only in 2018 when this Court would have the opportunity to squarely rule on the classification of petitioner LRTA in the wake of the doctrine laid down in the *2006 MIAA Case*. In the case of *Light Rail Transit Authority v. City of Manila, represented by the City Treasurer and the City Assessor (2018 LRTA Case)*,[38] LRTA filed a Petition for *Certiorari* and *Mandamus* against the City of Manila, which was poised to sell off petitioner's properties to answer for its delinquent real property tax notwithstanding its assertion that it was a government instrumentality exempt therefrom given the standards laid down in *2006 MIAA Case*. The lower courts dismissed the petition, hence, LRTA elevated the matter before this Court. In a Minute Resolution, this Court adjudged that LRTA's liability for real property tax was already settled in the *2000 LRTA Case*. In so doing, this Court apparently found the *2006 MIAA Case* doctrine inapplicable and declared that the *2000 LRTA Case* was authoritative with respect to petitioner's classification and resulting taxability.

However, about a year later, in *Light Rail Transit Authority v. Quezon City (2019 LRTA Case)*,[39] this Court in Division essentially ruled in the opposite, declaring that the *2000 LRTA Case* needed to be re-examined in light of the *2006 MIAA Case*, and the "present-day social milieu of great public impact." Emphatically, the Court held that the reasoning which formed the basis for the decision in the *2000 LRTA Case* "no longer holds water." The Court concluded that petitioner satisfied the requisites to be considered a government instrumentality exercising corporate powers, which was exempt from real property tax.

Given this glaring conflict between the *2018 LRTA Case* and *2019 LRTA Case*, primarily on how these cases view the effect of the *2006 MIAA Case* to the *2000 LRTA Case*, the Court is

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Authority v. Salvaña, 736 Phil. 123 (2014); *Hugo v. LRTA*, 630 Phil. 145 (2010); and *Light Rail Transit Authority v. Venus, Jr.*, 520 Phil. 233 (2006).

[38] G.R. No. 212925 (Notice), June 18, 2018.

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

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behooved by its constitutional mandate as the final arbiter of the law to resolve the issue once and for all.

Pertinently, while the *2019 LRTA Case* correctly held that the standards laid down in the *2006 MIAA Case* to be applicable to LRTA, the said *2006 MIAA Case* does not specifically pertain to LRTA. To add to the confusion, there was already a prior case —the *2000 LRTA Case*—where the same issue on petitioner's liability for real property was squarely raised and tackled by the Court. To date, there is no *En Banc* case which expressly overturned the pronouncement in the *2000 LRTA Case*.

It is an elementary principle that no doctrine laid down by the Court may be modified or reversed except by the Court sitting *En Banc*.[40] This rule finds special application in this case given that as recent as 2018, the Court still gave some semblance of validity to the *2000 LRTA Case* through its Minute Resolution in the *2018 LRTA Case*.

Moreover, the doctrine of *stare decisis* demands that the Court adhere to precedent once it lays down a principle of law as applicable to a certain state of facts and "apply it to all future cases, where facts are substantially the same; regardless of whether the parties and property are the same."[41] The doctrine rests on sound public policy to secure certainty and stability of judicial decisions.[42] As a result, only a strong or compelling reason can operate to impel the Court to abandon a prior ruling.[43]

This Court finds such a reason exists in this case given the revolutionary principles espoused by the *2006 MIAA Case*. In fact, due to these principles, other similarly situated entities were subsequently re-classified as government instrumentalities exercising corporate powers, such as the Mactan-Cebu

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[40] CONSTITUTION, ARTICLE VIII, Section 4(3).

[41] *Dela Cruz v. Ochoa Jr.*, 824 Phil. 269, 280 (2018), citing *Ty v. Banco Filipino Savings and Mortgage Bank*, 689 Phil. 603, 614 (2012).

[42] Id.

[43] *Luces v. Coca-Cola Bottlers Phils., Inc.*, G.R. No. 213816, December 2, 2020.

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International Airport Authority,[44] and the Bases Conversion and Development Authority,[45] despite earlier rulings to the contrary.

In a similar vein, it must be reiterated that, regardless of earlier rulings, the prevailing doctrine with regard to the legal classification of government corporate entities (as either government instrumentalities or GOCCs), are the standards laid down in the *2006 MIAA Case*. Thus, the *2000 LRTA Case*, which was decided by a Division, should be reexamined by this Court sitting *en banc*, in light of the significant legal developments ushered in by the *2006 MIAA Case*, which was also decided *En Banc*.

LRTA is a government instrumentality like MIAA, among others

In the *2006 MIAA Case*, this Court discussed the definition of a government instrumentality and a GOCC with regard to the Administrative Code of 1987 (Administrative Code). Section 2(10) of the Introductory Provisions of the Administrative Code defines an "instrumentality" as follows:

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

x 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. **This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations**. (Emphasis supplied)

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[44] *Mactan-Cebu International Airport Authority v. City of Lapu-Lapu*, supra note 35.

[45] *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, G.R. No. 205466, January 11, 2021; *Republic v. Heirs of Bernabe*, G.R. No. 237663, October 6, 2020; and *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, 833 Phil. 734 (2018).

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The definition of "instrumentality" under the above-quoted provision uses the phrase "includes x x x [GOCCs]," which means that a government "instrumentality" may or may not be a "GOCC." Obviously, the term government "instrumentality" is **broader** than the term "GOCC," which has a separate definition under Section 2(13) of the Introductory Provisions of the Administrative Code:[46]

> SEC. 2. *General Terms Defined.* - x x x
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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) percent of its capital stock: *Provided*, That government-owned or controlled corporations may further be categorized by the Department of Budget, the Civil Service Commission, and the Commission on Audit for the purpose of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.

The fact that two terms have separate definitions means that while a government "instrumentality" may include a "GOCC," there may be a government "instrumentality" that will not qualify as a "GOCC."[47]

A close scrutiny of the definition of "GOCC" in Section 2(13) will show that LRTA would not fall under such definition. **LRTA is a government "instrumentality" that does not qualify as a "GOCC."** As explained in the *2006 MIAA Case*:

> A government-owned or controlled corporation must be "**organized as a stock or non-stock corporation**." MIAA is not organized as a stock or non-stock corporation. MIAA is not a stock corporation because it has **no capital stock divided into shares**. MIAA has no stockholders or voting shares. x x x
>
> x x x x

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[46] *Manila International Airport Authority v. Court of Appeals*, supra note 7 at 210-211.

[47] Id.

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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**." MIAA has capital but it is not divided into shares of stock. MIAA has no stockholders or voting shares. Hence, MIAA is not a stock corporation.

MIAA is also not a non-stock corporation because it has no members. Section 87 of the Corporation Code defines a non-stock corporation as "one where no part of its income is distributable as dividends to its members, trustees or officers." A non-stock corporation must have members. Even if we assume that the Government is considered as the sole member of MIAA, this will not make MIAA a non-stock corporation. Non-stock corporations cannot distribute any part of their income to their members. Section 11 of the MIAA Charter mandates MIAA to remit 20% of its annual gross operating income to the National Treasury. This prevents MIAA from qualifying as a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are "organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers." MIAA is not organized for any of these purposes. MIAA, a public utility, is organized to operate an international and domestic airport for public use.

Since MIAA is neither a stock nor a non-stock corporation, MIAA does not qualify as a government-owned or controlled corporation. What then is the legal status of MIAA within the National Government?

MIAA is a **government instrumentality** vested with corporate powers to perform efficiently its governmental functions. MIAA is like any other government instrumentality, the only difference is that MIAA is vested with corporate powers. x x x

x x x x

When the law vests in a government instrumentality corporate powers, the instrumentality does not 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. Thus, MIAA exercises the governmental powers of eminent domain, police authority and the levying of fees and charges. At the same time, MIAA exercises "all the powers of a corporation under the Corporation Law, insofar as

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these powers are not inconsistent with the provisions of this Executive Order."[48] (Emphasis in the original)

From the foregoing, it is apparent that the primary test in determining whether an entity is a GOCC is how it was organized. In other words, the *2006 MIAA Case* provides that unless a government instrumentality was organized as a stock or non-stock corporation, then it must not be considered as a GOCC as defined in the Administrative Code.

A cursory perusal of the LRTA charter would reveal that it was not organized as a stock corporation because it has no capital stock divided into shares. In fact, the LRTA has no stockholders or voting shares. Article 6, Section 15 of Executive Order No. (EO) 603[49] or the LRTA Charter which created the LRTA, provides:

> Sec. 15. *Capitalization.* The Authority shall have an authorized capital of FIVE HUNDRED MILLION PESOS (₱500,000,000.00) which shall be fully subscribed by the Republic of the Philippines and other government institutions, corporations, instrumentalities, and agencies, whether national or local, within the framework of their respective charters. The authorized capital shall be used for the purpose of financing the Authority's business transactions and shall be paid as follows:
>
> (1) The sum of TWO HUNDRED MILLION PESOS (₱200,000,000.00) to be taken from the general fund in the National Treasury out of appropriations available for the purpose.
>
> (2) The balance of the authorized capital amounting to THREE HUNDRED MILLION PESOS (₱300,000,000.00) shall be released from the National Treasury out of appropriations available for the purpose, or subscribed and paid by government institutions as may be authorized pursuant to this Section, with the approval of the President.

To reiterate, 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*

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[48] Id. at 210-212.

[49] Entitled "CREATING A LIGHT RAIL TRANSIT AUTHORITY, VESTING THE SAME WITH AUTHORITY TO CONSTRUCT AND OPERATE THE LIGHT RAIL TRANSIT (LRT) PROJECT AND PROVIDING FUNDS THEREFOR," dated July 12, 1980.

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dividends x x x.*"* From the above, it is clear that LRTA has capital but it is not divided into shares of stock. LRTA has no stockholders or voting shares. Hence, LRTA is not a stock corporation.

The LRTA is also not a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are "organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agricultural and like chambers." LRTA was not organized for any of these purposes. LRTA, a public utility, 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.[50]

Moreover, the same LRTA charter would reveal that the LRTA has no members. Section 87 of the Corporation Code defines a non-stock corporation as "one where no part of its income is distributable as dividends to its members, trustees or officers." This implies that a non-stock corporation must have members, which the LRTA does not have.

Since the LRTA is neither a stock nor a non-stock corporation, LRTA does not qualify as a GOCC. As pointed out by *J.* Dimaampao, under the doctrine laid down in the *2006 MIAA Case*, this alone already qualifies LRTA as a government instrumentality, but if only to further refine this, the relevant provisions of the Administrative Code must be read in conjunction with Section 3 (n) of the GOCC Governance Act of 2011[51] that was obviously enacted after the *2006 MIAA Case*, and provides for a more specific definition of government instrumentalities, to wit:

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[50] Id., Section 2, Article 1 of E.O. No. 603.

[51] AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES. Approved: June 6, 2011.

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(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). (Emphasis supplied)

x x x x

From the foregoing, the following elements in order to qualify as a government instrumentality with corporate powers (GICP) or government corporate entity (GCE) can be distilled, to wit:

(a) agency of the government;
(b) neither a corporation nor agency integrated within the departmental framework;
(c) vested by law with special functions or jurisdiction;
(d) endowed with some if not all corporate powers;
(e) administering special funds; and
(f) enjoying operational autonomy usually through a charter.

As applied in this case, LRTA still clearly qualifies as a GICP/ GCE under the definition provided in Section 3(n) of the GOCC Governance Act of 2011.

LRTA is an agency of the government

An agency of the government refers to "any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation,

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or a local government or a distinct unit therein."[52] There is no dispute that LRTA is a unit of the government. It performs public service, it is attached to the Department of Transportation (DOTr), and its authorized capital is fully subscribed by the Republic of the Philippines.[53]

LRTA is neither a corporation nor is it integrated within the departmental framework

As previously explained, LRTA is not a GOCC precisely because it is neither a stock nor non-stock corporation. LRTA is also not integrated within the departmental framework despite being attached to the DOTr, as will be discussed in detail later.

LRTA is vested with special functions

LRTA is given the primary responsibility 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."[54]

LRTA is endowed with corporate powers

LRTA was specifically created as a "corporate body" that is capable, among others, to prescribe and modify its own by-laws, to sue and be sued, and to contract any obligation.[55]

LRTA administers special funds

LRTA is capitalized by up to ₱3,000,000,000.00,[56] and is tasked to manage its own revenues to meet its expenditures,[57] to contract

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[52] Section 2(4) of the Introductory Provisions of the Administrative Code of 1987.

[53] Sections 2 and 15 of Executive Order No. 603, Series of 1980, as amended.

[54] Section 2, Executive Order No. 603, Series of 1980, as amended.

[55] Sections 2 and 4, Executive Order No. 603, Series of 1980, as amended.

[56] Section 15, Executive Order No. 603, Series of 1980, as amended by Executive Order No. 830, Series of 1982.

[57] Section 2, Executive Order No. 603, Series of 1980, as amended.

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domestic and foreign loans to carry out its operations,[58] and to establish a sinking fund to redeem bonds it issues.[59]

LRTA enjoys operational autonomy through its charter

As held in the *2019 LRTA Case*, LRTA exists by virtue of a charter and its powers and functions are vested in and exercised by its Board of Directors independent of outside interference.

Undoubtedly, in light of the ruling in *2006 MIAA Case* and the statutory definition under the GOCC Governance Act of 2011, We conclude that LRTA is a government instrumentality vested with corporate powers to perform efficiently its governmental functions. LRTA is like any other government instrumentality, the only difference is that LRTA is vested with corporate powers.

LRTA is merely an attached agency to the DOTr.

The City posits a theory that LRTA cannot be a government instrumentality since the latter is allegedly integrated within the department framework, and is thus inconsistent with the definition of a government instrumentality in the Administrative Code, to wit:

> Obviously, for a government agency to be considered as an instrumentality, it must **not be integrated within a department framework, meaning it must not be included, incorporated or attached to any department under the executive branch of the government. As it specifically provided in its charter, LRTA is attached to the Ministry of Transportation and Communication (now Department of Transportation and Communication**, DOTC, for brevity). This is likewise affirmed in Executive Order No. 210 dated 7 July 1987 amending E.O. 603 to conform with the reorganization of the DOTC to which the LRTA is attached.[60] (Emphasis in the original)

Section 2 (10) of the Introductory Provisions of the Administrative Code defines a government instrumentality as:

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[58] Sections 6 and 7, Executive Order No. 603, Series of 1980, as amended.

[59] Section 6, Executive Order No. 603, Series of 1980, as amended.

[60] *Rollo*, p. 78.

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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.

The City's myopic interpretation of the above provision holds no water and is actually contradictory to its own position that LRTA is a GOCC. In line with Our pronouncements in the *2006 MIAA Case*, We must stress that the term government instrumentality is a broader and more general term than GOCC, and hence should be interpreted in such light. A government instrumentality may or may not be a GOCC, but a GOCC is a government instrumentality by definition. By claiming that LRTA is a GOCC, the City is already admitting that the LRTA is a government instrumentality so there is no sense in claiming otherwise. The only issue at this juncture is whether or not the LRTA, a government instrumentality, falls under the definition of a GOCC.

If only to emphasize the absurdity of interpreting Section 2 (10) of the Introductory Provisions of the Administrative Code to mean that attached agencies are "integrated within the department framework," should this Court hypothetically apply respondent's theory, then all the attached agencies to the DOTr can no longer be considered as government instrumentalities, including the MIAA, MCIAA, Philippine National Railways (PNR), Philippine Ports Authority (PPA), etc.

For reference, it must be noted that We have already ruled several attached agencies, including the MIAA and MCIAA (both are agencies attached to the DOTr), to be government instrumentalities.

Applying the *2006 MIAA Case* ruling, the Court, in *Philippine Fisheries Development Authority v. Court of Appeals*,[61] held the Philippine Fisheries Development Authority (PFDA), an agency attached to the Department of Agriculture, to be a government instrumentality, to wit:

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[61] 555 Phil. 661 (2007).

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On the basis of the parameters set in the *MIAA* case, the Authority should be classified as an instrumentality of the national government. As such, it is generally exempt from payment of real property tax, except those portions which have been leased to private entities.

In the *MIAA* case, petitioner Philippine Fisheries Development Authority was cited as among the instrumentalities of the national government. x x x.

x x x x

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

Thus, the Authority which is tasked with the special public function to carry out the government's policy "to promote the development of the country's fishing industry and improve the efficiency in handling, preserving, marketing, and distribution of fish and other aquatic products," exercises the governmental powers of eminent domain, and the power to levy fees and charges. At the same time, the Authority exercises "the general corporate powers conferred by laws upon private and government-owned or controlled corporations."

x x x x

In light of the foregoing, the Authority should be classified as an instrumentality of the national government which is liable to pay taxes only with respect to the portions of the property, the beneficial use of which were vested in private entities. When local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments. The rule is that a tax is

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never presumed and there must be clear language in the law imposing the tax. Any doubt whether a person, article or activity is taxable is resolved against taxation. This rule applies with greater force when local governments seek to tax national government instrumentalities.

Thus, the real property tax assessments issued by the City of Iloilo should be upheld only with respect to the portions leased to private persons. In case the Authority fails to pay the real property taxes due thereon, said portions cannot be sold at public auction to satisfy the tax delinquency. x x x.

x x x x

In sum, the Court finds that the Authority is an instrumentality of the national government, hence, it is liable to pay real property taxes assessed by the City of Iloilo on the IFPC only with respect to those portions which are leased to private entities. Notwithstanding said tax delinquency on the leased portions of the IFPC, the latter or any part thereof, being a property of public domain, cannot be sold at public auction. This means that the City of Iloilo has to satisfy the tax delinquency through means other than the sale at public auction of the IFPC.[62]

Another government instrumentality specifically mentioned in the *2006 MIAA Case* was the PPA, which is an agency attached to the DOTr, similar with the LRTA. Hence, in *Curata v. Philippine Ports Authority*,[63] the Court held that the PPA is similarly situated as MIAA, and ruled in this wise:

This Court's disquisition in *Manila International Airport Authority v. Court of Appeals* – ruling that MIAA is not a government-owned and/or controlled corporation (GOCC), but an instrumentality of the National Government and thus exempt from local taxation, and that its real properties are owned by the Republic of the Philippines — is instructive. x x x. These findings are squarely applicable to PPA, as it is similarly situated as MIAA. *First*, PPA is likewise not a GOCC for not having shares of stocks or members. *Second*, the docks, piers and buildings it administers are likewise owned by the Republic and, thus, outside the commerce of man. *Third*, PPA is a mere trustee of these properties. Hence, like MIAA, PPA is clearly a government instrumentality, an agency of

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[62] Id. at 668-674.

[63] 608 Phil. 9 (2009).

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the government vested with corporate powers to perform efficiently its governmental functions.

Therefore, an undeniable conclusion is that the funds of PPA partake of government funds, and such may not be garnished absent an allocation by its Board or by statutory grant. If the PPA funds cannot be garnished and its properties, being government properties, cannot be levied via a writ of execution pursuant to a final judgment, then the trial court likewise cannot grant discretionary execution pending appeal, as it would run afoul of the established jurisprudence that government properties are exempt from execution. What cannot be done directly cannot be done indirectly.[64]

Given the forgoing, the City's arguments are utterly unmeritorious for having no legal basis as jurisprudence would clearly show that being an attached agency to a Department does not equate to being "integrated within the departmental framework."

The LRTA, being an instrumentality of the national government, cannot be taxed by local governments

A government instrumentality like LRTA falls under Section 133(o) of the Local Government Code, which states:

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 shall not extend to the levy of the following**:

x x x x

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

Section 133(o) recognizes the basic principle that local governments cannot tax the national government, as the former's power to tax is, historically, merely delegated by the latter. While the 1987 Constitution now includes taxation as one of the powers

[64] Id. at 87.

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of local governments, local governments may only exercise such power "subject to such guidelines and limitations as the Congress may provide."[65]

We reiterate our ruling in the *2006 MIAA Case*, which succinctly explains the rule on the local governments' power to tax:

> When local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments. The rule is that a tax is never presumed and there must be clear language in the law imposing the tax. Any doubt whether a person, article or activity is taxable is resolved against taxation. This rule applies with greater force when local governments seek to tax national government instrumentalities.
>
> Another rule is that a tax exemption is strictly construed against the taxpayer claiming the exemption. However, when Congress grants an exemption to a national government instrumentality from local taxation, such exemption is construed liberally in favor of the national government instrumentality. As this Court declared in ***Maceda v. Macaraig, Jr.***:
>
> > The reason for the rule does not apply in the case of exemptions running to the benefit of the government itself or its agencies. In such case the practical effect of an exemption is merely to reduce the amount of money that has to be handled by government in the course of its operations. For these reasons, provisions granting exemptions to government agencies may be construed liberally, in favor of non tax-liability of such agencies.
>
> There is, moreover, no point in national and local governments taxing each other, unless a sound and compelling policy requires such transfer of public funds from one government pocket to another.
>
> There is also no reason for local governments to tax national government instrumentalities for rendering essential public services to inhabitants of local governments. **The only exception is when the legislature clearly intended to tax government instrumentalities for the delivery of essential public services for sound and compelling policy considerations**. There must be express language in the law empowering local governments to tax national government instrumentalities. Any doubt whether such power exists is resolved against local governments.

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[65] *Manila International Airport Authority v. Court of Appeals*, supra note 7 at 214.

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Thus, Section 133 of the Local Government Code states that "**unless otherwise provided**" in the Code, local governments cannot tax national government instrumentalities. As this Court held in ***Basco v. Philippine Amusements and Gaming Corporation***:

> The states have no power by taxation or otherwise, to retard, impede, burden or in any manner control the operation of constitutional laws enacted by Congress to carry into execution the powers vested in the federal government. (*MC Culloch v. Maryland,* 4 Wheat 316, 4 L Ed. 579)

This doctrine emanates from the "supremacy" of the National Government over local governments.

> Justice Holmes, speaking for the Supreme Court, made reference to the entire absence of power on the part of the States to touch, in that way (taxation) at least, the instrumentalities of the United States (*Johnson v. Maryland*, 254 US 51) and it can be agreed that *no state or political subdivision can regulate a federal instrumentality in such a way as to prevent it from consummating its federal responsibilities, or even to seriously burden it in the accomplishment of them*. (Antieau, *Modern Constitutional Law*, Vol. 2, p. 140, italics supplied)

Otherwise, mere creatures of the State can defeat National policies thru extermination of what local authorities may perceive to be undesirable activities or enterprise using the power to tax as "a tool for regulation" (*U.S. v. Sanchez*, 340 US 42).

The power to tax which was called by Justice Marshall as the "power to destroy" (*Mc Culloch v. Maryland*, supra) cannot be allowed to defeat an instrumentality or creation of the very entity which has the inherent power to wield it.[66]

Clearly, the general rule that tax exemption is strictly construed against the taxpayer claiming the exemption does not apply in the instant case, as the legislature itself created an exemption to national government instrumentalities from local taxation. Thus, such exemption is construed liberally in favor of national government instrumentalities, which includes LRTA.

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[66] Id. at 214-216.

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The properties owned by LRTA, a national government instrumentality, are exempt from real property taxation

The properties of LRTA are of public dominion

The properties of LRTA are properties of public dominion and therefore owned by the State or the Republic of the Philippines. The Civil Code provides:

ARTICLE 419. Property is either of public dominion or of private ownership.

ARTICLE 420. **The following things are property of public dominion**:

(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**;

(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.

ARTICLE 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property.

ARTICLE 422. Property of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State. (Emphasis supplied)

No one can dispute that properties of public dominion mentioned in Article 420(1) of the Civil Code, such as "roads, canals, rivers, torrents, ports and bridges constructed by the State," are owned by the State. While there is no specific mention of "rail roads" or "rail road tracks," the wording of the said provision permits inclusion of other properties **of similar character**.

There is no question that the Light Rail Transit System (LRT) is devoted to public use because the same **was constructed with the intent of providing mass transportation to the people to alleviate the traffic and transportation situation in Metro Manila**. Rail roads are of a similar nature with roads, as both are

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man-made constructions on land to facilitate the passage of certain vehicles. In fact, the LRT's rail roads and terminals are anchored at certain points, on public roads, similar with elevated highways.

The mere fact that LRTA collects fees and other charges from the public does not remove the character of the rail roads and terminals as properties for public use. The operation by the government of an elevated highway or expressway with a toll does not change the character of the road as one for public use. Someone must pay for the maintenance of the road, either the public indirectly through the taxes they pay the government, or only those among the public who actually use the road through the toll fees they pay upon using the road. In fact, the tollway system is a more efficient and equitable manner of taxing the public for the maintenance of public roads.[67]

The charging of fees to the public does not determine the character of the property whether it is of public dominion or not. Article 420 of the Civil Code defines property of public dominion as one "intended for public use." Even if the government collects toll fees, the road is still "intended for public use" if anyone can use the road under the same terms and conditions as the rest of the public. The charging of fees, the limitation on the kind of vehicles that can use the road, the speed restrictions and other conditions for the use of the road do not affect the public character of the road.[68]

The fees that the LRTA charges to passengers constitute the bulk of the income that maintains the operations of LRTA and the LRT. The collection of such fees does not change the character of the LRT as a mode of mass transportation for public use. Such fees are often termed user's tax. This means taxing those among the public who actually use a public facility instead of taxing all the public including those who never use the particular public facility. A user's tax is more equitable—a principle of taxation mandated in the 1987 Constitution.[69]

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[67] Id. at 217.

[68] Id.

[69] Id.

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As properties of public dominion, they indisputably belong to the State or the Republic of the Philippines

The rail roads and terminals, among other properties of the LRTA, are not merely patrimonial property as they were intended for public use and public service

Even assuming *arguendo* that LRT was not constructed for public use, these properties are owned by State and are clearly intended for some public service, which falls under Article 420 (2) of the Civil Code.

In this regard, the records would show that the LRT, with all its rail roads and terminals, are essentially constructed by the State through the LRTA, in accordance with the State's transportation policy laid down in the LRTA charter. It was undisputed that the LRTA acquired the subject properties through expropriation proceedings, and that the national government has been subsidizing the LRTA for the payment of its loans and interest payments for capital intensive projects such as the LRT Line 1 (Baclaran-Roosevelt).[70] In fact, if only to show how much the LRTA is reliant on the national government, the said LRT Line 1 would have ceased operation if not for the national government's subsidies amounting to ₱5.895 billion.[71] Thus, We agree with LRTA's position that the real owner of these properties is actually the State, especially considering the fact that said properties could not have been obtained without the use of the State's inherent power of eminent domain, which it merely delegated to the LRTA as its agent.

Thus, the inescapable conclusion is that the properties of the LRTA are not merely patrimonial properties, but are properties of the public dominion that cannot be subjected to real property tax.

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[70] *Rollo*, pp. 17-20.

[71] Id. at 63.

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LRTA's properties are outside the commerce of man

As discussed extensively above, the properties of LRTA are devoted to public use, and thus, are properties of public dominion, which are outside the commerce of man. The Court has ruled repeatedly that properties of public dominion are outside the commerce of man. We ruled in the *2006 MIAA Case*:

> As early as 1915, this Court already ruled in ***Municipality of Cavite v. Rojas*** that properties devoted to public use are outside the commerce of man, thus:
>
> > According to Article 344 of the Civil Code: "Property for public use in provinces and in towns comprises the provincial and town roads, the squares, streets, fountains, and public waters, the promenades, and public works of general service supported by said towns or provinces."
> >
> > The said Plaza Soledad being a promenade for public use, the municipal council of Cavite could not in 1907 withdraw or exclude from public use a portion thereof in order to lease it for the sole benefit of the defendant Hilaria Rojas. In leasing a portion of said plaza or public place to the defendant for private use the plaintiff municipality exceeded its authority in the exercise of its powers by executing a contract over a thing of which it could not dispose, nor is it empowered so to do.
> >
> > The Civil Code, Article 1271, prescribes that everything which is not outside the commerce of man may be the object of a contract, and plazas and streets are **outside of this commerce**, as was decided by the Supreme Court of Spain in its decision of February 12, 1895, which says: "**Communal things that cannot be sold because they are by their very nature outside of commerce are those for public use, such as the plazas, streets, common lands, rivers, fountains, *etc***." x x x (underscoring in the original)

Again in ***Espiritu v. Municipal Council***, the Court declared that properties of public dominion are outside the commerce of man:

> > x x x Town plazas are **properties of public dominion**, to be devoted to public use and to be made available to the public in general. They are **outside the commerce of man** and cannot be disposed of or even leased by the municipality to private parties. While in case of war or during an emergency, town plazas may

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> be occupied temporarily by private individuals, as was done and as was tolerated by the Municipality of Pozorrubio, when the emergency has ceased, said temporary occupation or use must also cease, and the town officials should see to it that the town plazas should ever be kept open to the public and free from encumbrances or illegal private constructions. (emphases in the original)

The Court has also ruled that property of public dominion, being outside the commerce of man, cannot be the subject of an auction sale.

> Properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures and auction sale. This will happen if the City of Parañaque can foreclose and compel the auction sale of the 600-hectare runway of the MIAA for non-payment of real estate tax.[72]

From the above, there is no reason why the same principle explained above should not be applied to LRTA's properties, which are of the public dominion.

Real property owned by the State is not taxable

Section 234(a) of the LGC exempts from real property tax any "[r]eal property owned by the Republic of the Philippines." Section 234(a) provides:

> 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;
>
> x x x x.

This exemption should be read in relation with Section 133(o) of the same Code, which prohibits local governments from imposing "[t]axes, fees or charges of any kind on the National Government,

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[72] Id. at 218-219.

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its agencies and **instrumentalities** x x x." The real properties owned by the Republic of the Philippines are titled either in the name of the Republic itself, or in the name of agencies or instrumentalities of the National Government. 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.[73]

The Republic may grant the beneficial use of its real property to an agency or instrumentality of the national government. This happens when 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 privilege. Section 234(a) of the Local Government Code states that real property owned by the Republic loses its tax exemption only if the "beneficial use thereof has been granted, for consideration or otherwise, to a **taxable person**."[74] LRTA, as a government instrumentality, is not a taxable person under Section 133(o) of the LGC. Thus, even if We assume that the Republic has granted to LRTA the beneficial use of the LRT properties, such fact does not make these real properties subject to real estate tax.

However, portions of the LRT properties that LRTA leases to private entities are not exempt from real estate tax. For example, the land area occupied by private concessionaires in certain LRT lines and terminals should be subject to real estate tax. In such a case, LRTA has granted the beneficial use of such land area for a consideration to a **taxable person** and therefore such land area is subject to real estate tax, which, if only to be clear and as pointed out by *J.* Caguioa, must consequently be paid by said taxable person; not LRTA. In *Lung Center of the Philippines v. Quezon City*,[75] the Court ruled:

Accordingly, we hold that the portions of the land leased to private entities as well as those parts of the hospital leased to private individuals

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[73] Id. at 224.

[74] Id.

[75] 477 Phil. 141 (2004).

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are not exempt from such taxes. On the other hand, the portions of the land occupied by the hospital and portions of the hospital used for its patients, whether paying or non-paying, are exempt from real property taxes.[76]

To summarize, under Section 2(10) and (13) of the Introductory Provisions of the Administrative Code, which governs the legal relation and status of government units, agencies and offices within the entire government machinery, LRTA is a government instrumentality, and not a GOCC. Under Section 133(o) of the LGC, LRTA as a government instrumentality is not a taxable person because it is not subject to "[t]axes, fees or charges of any kind" by local governments. The only exception is when LRTA grants the beneficial use of its real property to a "taxable person" as provided in Section 234(a) of the LGC, in which case, the specific real property leased becomes subject to real property tax, which must be paid by the "taxable person" as stressed by *J.* Caguioa. Thus, only portions of the LRT leased to taxable persons like private parties are subject to real property tax by the City.

Under Article 420 of the Civil Code, the rail roads and terminals of the LRT, being devoted to public use, are properties of public dominion and thus owned by the State or the Republic of the Philippines. Article 420, while not specifically mentioning "rail roads" or "rail road tracks," allow for the inclusion of properties of a similar character. LRT rail roads, which necessarily include its terminals, are of a similar character to public roads, as both are devoted for public use and both facilitate transportation through certain vehicles. In any event, the LRT is owned by the State through the LRTA, as its agent, and is definitely intended for some public service, which is to provide mass transportation to the people to alleviate the traffic and transportation situation in Metro Manila. Therefore, being properties of public dominion owned by the Republic, there is no doubt that the LRT rail roads and terminals are expressly exempt from real estate tax under Section 234(a) of the LGC, subject to the rule discussed above, and are not subject to execution or foreclosure sale.

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[76] Id. at 160.

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WHEREFORE, the Petition is **GRANTED**. The October 8, 2013 Decision and the January 29, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 129922, are **REVERSED** and **SET ASIDE**. Accordingly, We **DECLARE**:

1. Petitioner Light Rail Transit Authority properties that are actually, solely and exclusively devoted for public use, consisting of the LRT rail roads and terminals, and the lots on which they are situated, **EXEMPT** from real property tax imposed by the City of Pasay. Consequentially, the City of Pasay is **PROHIBITED** from imposing any further similar tax.

2. **VOID** all the real property tax assessments, as well as the warrants of levy, issued by the City of Pasay, on petitioner's properties, except the assessment covering the portions that petitioner has leased to private parties, who are liable to pay the corresponding real property tax.

3. **VOID** the subsequent public auction over any of petitioner's exempt properties, and any act of disposition made by the City of Pasay of such exempt properties. We likewise declare **VOID** the corresponding Certificates of Sale or Conveyance issued by the City of Pasay.

SO ORDERED.

Gesmundo, C.J., Lazaro-Javier, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ.,* concur.

Leonen, Caguioa, and *Zalameda, JJ.*, see separate concurring opinions.

M. Lopez, J., no part.

Inting, J., on leave on official time.

APPEARANCES OF COUNSEL

LRTA Legal Department for petitioner.
Office of the City Legal Officer for respondent.

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CONCURRING OPINION

LEONEN, *J.*:

I concur in the *ponencia*. In line with the parameters set in *Manila International Airport Authority v. Court of Appeals*,[1] and as squarely held in *Light Rail Transit Authority v. Quezon City*,[2] petitioner Light Rail Transit Authority is a government instrumentality with corporate powers. Its properties are of public dominion, which are exempt from real property tax.

I

Before delving on the main issue, I must point out that the Court of Appeals' Decision and Resolution are void for lack of jurisdiction. Petitioner filed its appeal from the Regional Trial Court's Decision in 2013,[3] after Section 7 of Republic Act No. 1125 had been amended by Republic Act No. 9282 in 2004. Section 7, as amended, enumerates the cases over which the Court of Tax Appeals exercises jurisdiction:

> SECTION 7. *Jurisdiction.* — The Court of Tax Appeals shall exercise:
>
> (a) *Exclusive appellate jurisdiction* to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific

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[1] 528 Phil. 181 (2006) [Per J. Carpio, En Banc].

[2] G.R. No. 221626, October 9, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66014> [Per J. Lazaro-Javier, Second Division].

[3] *Ponencia*, p. 3.

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period of action, in which case the inaction shall be deemed a denial;

(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;*

(4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

(5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(6) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

(7) Decisions of the Secretary of Trade and Industry, in the case of non-agricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties. (Emphasis supplied)

Section 7 provides that the Court of Tax Appeals has exclusive appellate jurisdiction over local tax cases decided by a regional trial court. Local tax cases include cases involving real property tax,[4] as in this case. Hence, petitioner should have filed the appeal before the Court of Tax Appeals, not the Court of Appeals.

Generally, the filing of appeal before the wrong court does not toll the period to appeal,[5] and the trial court's decision consequently

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[4] *City of Lapu-Lapu v. Philippine Economic Zone Authority*, 748 Phil. 473, 529 (2014) [Per J. Leonen, Second Division].

[5] Id. at 533.

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becomes final and executory. Nonetheless, considering the importance of the issues involved and in the interest of justice, this Court may proceed to resolve the issue in this case to correct a grave error committed by the Regional Trial Court in dismissing the case before it.

Petitioner does not question the reasonableness or excessiveness of the amount assessed. What it challenges is the assessor's authority and power to impose the assessment, and the treasurer's authority and power to collect the real property tax. Its main contention is that it is a government instrumentality, which is exempt from real property tax. Hence, pursuant to this Court's ruling in *Ty v. Trampe*,[6] the Regional Trial Court should have given due course to petitioner's resort to judicial action.

II

Petitioner was created in 1980 under Executive Order No. 603,[7] to be "primarily responsible for the construction, operation, maintenance, and/or lease of light rail transit systems"[8] in the country. These light rail transit systems were envisioned to alleviate traffic in a congested metropolitan area within the context of rational land use planning.[9]

Although created as a corporate body,[10] it does not qualify strictly as a government-owned or controlled corporation as defined under Section 2(13) of the Administrative Code, which states:

> 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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[6] 321 Phil. 81 (1995) [Per J. Panganiban, En Banc].

[7] As amended by Executive Order No. 830 (1982) and Executive Order No. 210 (1987).

[8] Executive Order No. 603 (1980), sec. 2.

[9] Executive Order No. 603 (1980), 3rd Whereas Clause.

[10] Executive Order No. 603 (1980), sec. 2.

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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 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.

By its definition, a government-owned or controlled corporation is a stock or non-stock corporation. Here, however, following the parameters of *Manila International Airport Authority v. Court of Appeals*,[11] petitioner cannot be considered a stock corporation because it has no capital stock divided into shares, no stockholders, and no voting shares. Section 15 of Executive Order No. 603 provides:

ARTICLE 6
Capitalization and Financing

SECTION 15. *Capitalization.* — The Authority shall have an authorized capital of FIVE HUNDRED MILLION PESOS (₱500,000,000.00)[12] which shall be fully subscribed by the Republic of the Philippines and other government institutions, corporations, instrumentalities, and agencies, whether national or local, within the framework of their respective charters. The authorized capital shall be used for the purpose of financing the Authority's business transactions and shall be paid as follows:

(1) The sum of TWO HUNDRED MILLION PESOS (₱200,000,000.00) to be taken from the general fund in the National Treasury out of appropriations available for the purpose.

(2) The balance of the authorized capital amounting to THREE HUNDRED MILLION PESOS (₱300,000,000.00) shall be released from the National Treasury out of appropriations

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[11] 528 Phil. 181 (2006) [Per J. Carpio, En Banc].

[12] Increased to ₱3 billion by Executive Order No. 830 (1982), sec. 1.

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> available for the purpose, or subscribed and paid by government institutions as may be authorized pursuant to this Section, with the approval of the President.
>
> SECTION 16. *Initial Debt.* — The Authority shall be indebted to the Government, or any of its ministries, bureaus, agencies or offices, in a sum equal to all expenditures, directly or indirectly advanced or incurred by the Government or any of its ministries, bureaus, agencies or offices, in relation to the investigation, planning and/or construction of the light rail transit system. The Minister of Finance shall, upon prior notice, determine the accuracy and reasonableness of such advances or indebtedness.

Neither can petitioner be a non-stock corporation. It has no members, and it is not 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[.]"[13] Petitioner was organized to build and operate a light rail transit system for public use.

More, to qualify as a government-owned or controlled corporation, an agency must satisfy the tests of common good and economic viability as prescribed in Article XII, Section 16 of the Constitution, which states:

> 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.

The creation of petitioner was undoubtedly for the common good—to construct and operate the light rail transport system in the country to address the public need for "safe, fast[,] and reliable mobility[.]"[14] However, the requirement of economic viability is unnecessary because the light rail transport system was designed as a public utility, not as a profit center. Petitioner is merely

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[13] REV. CORP. CODE, sec. 87.

[14] Executive Order No. 603 (1980), 2nd Whereas Clause.

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mandated to prudently conduct its business and to ensure that its revenues are "at least sufficient to meet its expenditures."[15]

Petitioner is more properly classified as a government instrumentality, defined under the Administrative Code as "any agency of the [n]ational [g]overnment, *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."[16]

Petitioner is an attached agency of the Department of Transportation[17] for the purpose of policy and program coordination. Book IV, Chapter 7, Section 38(3)(a) of the Administrative Code defines "attachment":

> SECTION 38. Definition of Administrative Relationship. — Unless otherwise expressly stated in the Code or in other laws defining the special relationships of particular agencies, administrative relationships shall be categorized and defined as follows:
>
> . . . .
>
> (3) Attachment. — (a) *This refers to the lateral relationship between the department or its equivalent and the attached agency or corporation for purposes of policy and program coordination*. The coordination may be accomplished by having the department represented in the governing board of the attached agency or corporation, either as chairman or as a member, with or without voting rights, if this is permitted by the charter; having the attached corporation or agency comply with a system of periodic reporting which shall reflect the progress of the programs and projects; and having the department or its equivalent provide general policies through its representative in the board, which shall serve as the framework for the internal policies of the attached corporation or agency[.] (Emphasis supplied)

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[15] Executive Order No. 603 (1980), sec. 2.

[16] ADM. CODE, sec. 2(10).

[17] Executive Order No. 603 (1980), sec. 2.

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An attached agency enjoys "a larger measure of independence" as distinguished from one under departmental supervision and control or administrative supervision. In *Beja, Sr. v. Court of Appeals*:[18]

> 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 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.[19] (Citations omitted)

As an attached agency of the Department of Transportation, petitioner's nine-member board of directors is chaired by the Transportation Secretary.[20] The board provides policy guidance in developing and operating a light rail transit system;[21] "cooperate[s], coordinate[s], and exchange[s] such information, studies, and reports" with other agencies and instrumentalities to achieve its purposes;[22] reports annually to the president on the status of its operations and finances;[23] and recommends the establishment of other light rail transit systems in the country.[24]

To accomplish its function of constructing, operating, and maintaining the country's light rail transit system, petitioner is

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[18] G.R. No. 97149, March 31, 1992 [Per J. Romero, En Banc].

[19] Id.

[20] Executive Order No. 210 (1987), sec. 1.

[21] Executive Order No. 603 (1980), sec. 5(1).

[22] Executive Order No. 603 (1980), sec. 5(6).

[23] Executive Order No. 603 (1980), sec. 5(11).

[24] Executive Order No. 603 (1980), sec. 5(10).

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endowed with the governmental power of eminent domain and corporate attributes, functions, and powers:

ARTICLE 2
Corporate Powers

SECTION 4. *General Powers.* — The Authority, through the Board of Directors, may undertake such action 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. As such, the Authority shall have the following general powers:

(1) To have continuous succession under its corporate name, until otherwise provided by law;
(2) To prescribe, amend, and/or repeal its by-laws;
(3) To adopt and use a seal and alter it at its pleasure;
(4) To sue and be sued;
(5) To contract any obligation or enter into, assign or accept the assignment of, and vary or rescind any agreement, contract of obligation necessary or incidental to the proper management of the Authority;
(6) To borrow funds from any source, private or public, foreign or domestic, and to issue bonds and other evidence of indebtedness, the payment of which shall be guaranteed by the National Government, subject to pertinent borrowing law;
(7) To acquire, receive, take, and hold by bequest, devise, gift, purchase or lease, either absolutely or in trust for any of its purposes, from foreign and domestic sources, any assets, grant or property, real or personal, subject to such limitations as are provided in existing laws; to convey or dispose of such assets, grants, or properties, movable and immovable; and invest and/or reinvest such proceeds and deal with and expand its assets and income in such a manner as will best promote its objectives;
(8) To improve, develop or alter any property held by it;
(9) To carry on any business, either alone or in partnership with any other person or persons;
(10) To employ an agent or contractor or perform such things as the Authority may perform;
(11) To exercise the right of eminent domain, whenever the Authority deems it necessary for the attainment of its objectives;
(12) To prescribe rules and regulations in the conduct of its general business as well as to fix and implement the terms and conditions of its related activities;

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(13) To determine the fares payable by persons travelling on the light rail system, in consultation with the Board of Transportation;
(14) To establish, operate, and maintain branches or field offices when required by the exigencies of its business;
(15) To determine its organizational structure and the number, positions and salaries of its personnel, subject to pertinent organization and compensation law; and
(16) To exercise such powers and perform such duties as may be necessary to carry out the business and purposes for which the Authority was established or which, from time to time, may be declared by the Board of Directors to be necessary, useful, incidental or auxiliary to accomplish such purposes; and generally, to exercise all powers of an Authority under the Corporation Law that are not inconsistent with the provisions of this Order, or with orders pertaining to government corporate budgeting, organization, borrowing, or compensation.

Petitioner enjoys operational autonomy, but it remains part of the national government machinery, although not integrated within the departmental framework.

Manila International Airport Authority holds that "[w]hen the law vests in a government instrumentality corporate powers, the instrumentality does not 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."[25]

In sum, petitioner is not a government-owned or controlled corporation, but a government instrumentality with corporate powers. Being an instrumentality of the national government, it cannot be taxed by local government units.[26]

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[25] *Manila International Airport Authority v. Court of Appeals*, 528 Phil. 181, 212 (2006) [Per J. Carpio, En Banc].

[26] LOCAL GOV'T. CODE, sec. 133(o) provides:
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:
. . . .
(o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.

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The removal of real property tax exemption privileges for government-owned or controlled corporations under the last paragraph of Section 234 of the Local Government Code,[27] therefore, does not apply to petitioner.

III

Under Section 234(a) of the Local Government Code, real properties owned by the Republic or any of its political subdivisions are exempt from real property tax, except when their beneficial use has been granted, for consideration or otherwise, to a taxable person.

Properties owned by the State are either properties of public dominion or patrimonial properties. Article 420 of the Civil Code identifies properties of public dominion:

> ARTICLE 420. The following things are property of public dominion:
>
> (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;
>
> (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. (Emphasis supplied)

All other properties of the State that are not of the character stated in Article 420 are classified as patrimonial properties.[28]

In *Manila International Airport Authority*, this Court held that the Manila International Airport Authority's airport lands and buildings are intended for public use, and therefore, are properties of public dominion. Its collection of terminal fees and

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[27] LOCAL GOV'T. CODE, sec. 234 provides:
SECTION 234. Exemptions from Real Property Tax. — The following are exempted from payment of the real property tax:
. . . .
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. (Emphasis supplied)

[28] CIVIL CODE, art. 421.

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other charges from the public does not remove the character of the airport lands and buildings as properties for public use:

> No one can dispute that properties of public dominion mentioned in Article 420 of the Civil Code, like "roads, canals, rivers, torrents, ports and bridges constructed by the State," are owned by the State. The term "ports" includes seaports and airports. The MIAA Airport Lands and Buildings constitute a "port" constructed by the State. Under Article 420 of the Civil Code, the MIAA Airport Lands and Buildings are properties of public dominion and thus owned by the State or the Republic of the Philippines.
>
> The Airport Lands and Buildings are devoted to public use because they are used by the public for international and domestic travel and transportation. The fact that the MIAA collects terminal fees and other charges from the public does not remove the character of the Airport Lands and Buildings as properties for public use. The operation by the government of a tollway does not change the character of the road as one for public use. Someone must pay for the maintenance of the road, either the public indirectly through the taxes they pay the government, or only those among the public who actually use the road through the toll fees they pay upon using the road. The tollway system is even a more efficient and equitable manner of taxing the public for the maintenance of public roads.
>
> The charging of fees to the public does not determine the character of the property whether it is of public dominion or not. Article 420 of the Civil Code defines property of public dominion as one "intended for public use." Even if the government collects toll fees, the road is still "intended for public use" if anyone can use the road under the same terms and conditions as the rest of the public. The charging of fees, the limitation on the kind of vehicles that can use the road, the speed restrictions and other conditions for the use of the road do not affect the public character of the road.[29]

Likewise, in this case, petitioner's lands, buildings, machineries, carriageways, and passenger terminal stations are intended for public use, and thus, are properties of public dominion. The light rail transit system was constructed to provide an "efficient mass

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[29] *Manila International Airport Authority v. Court of Appeals*, 528 Phil. 181, 216-217 (2006) [Per J. Carpio, En Banc].

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transportation system"[30] to the public. That petitioner imposes fares on persons traveling on the light rail transit system does not detract from its character as one for public use. Neither does petitioner entering into partnership agreements with private parties for the system's management and operation change its properties' characterization as properties of public dominion, for public use or public service.[31]

As properties of public dominion, the lands, buildings, machineries, carriageways, and passenger terminal stations are held by petitioner in trust for the Republic, and are exempt from real property taxes. As explained in *Manila International Airport Authority*:

> This exemption [under Section 234 (o) of the Local Government Code] should be read in relation with Section 133(o) of the same Code, which prohibits local governments from imposing "[t]axes, fees or charges of any kind on the National Government, its agencies and instrumentalities . . ." The real properties owned by the Republic are titled either in the name of the Republic itself or in the name of agencies or instrumentalities of the National Government. 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.
>
> The Republic may grant the beneficial use of its real property to an agency or instrumentality of the national government. This happens when 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. Section 234(a) of the Local Government Code states that real property owned by the Republic loses its tax exemption only if the "beneficial use thereof has been granted, for consideration or otherwise, to a taxable person." MIAA, as a government instrumentality, is not a taxable person under Section 133(o) of the Local Government Code. Thus, even if we assume that the Republic has granted to MIAA the beneficial use

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[30] Executive Order No. 603 (1980), 2nd Whereas Clause.

[31] *Light Rail Transit Authority v. Quezon City*, G.R. No. 221626, October 9, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66014> [Per J. Lazaro-Javier, Second Division].

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of the Airport Lands and Buildings, such fact does not make these real properties subject to real estate tax.[32]

However, portions of the lands and buildings that petitioner rented out to private parties for their beneficial use are subject to real property tax, per the exception clause in Section 234(a) of the Local Government Code.

ACCORDINGLY, I vote to **GRANT** the Petition.

SEPARATE CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* in granting the instant Petition.

I submit this Separate Concurring Opinion to expound on the following points:

1. In the 2019 case of *Light Rail Transit Authority v. Quezon City*[1] *(2019 LRTA case)*, the Court, applying the doctrine in *Manila International Airport Authority v. Court of Appeals*,[2] *(MIAA* case*)*, had already ruled that petitioner Light Rail Transit Authority (LRTA) is a government instrumentality exercising corporate powers and not a government-owned and/or controlled corporation (GOCC). As such, the LRTA properties belong to the Republic of the Philippines and are intended for public use. Accordingly, they are exempt from real property taxes (RPT); and
2. The liability to pay RPT on government-owned properties leased to private entities devolves upon the taxable beneficial user.

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[32] *Manila International Airport Authority v. Court of Appeals*, 528 Phil. 181, 224-225 (2006) [Per J. Carpio, En Banc].

[1] G.R. No. 221626, October 9, 2019, 922 SCRA 588.

[2] 528 Phil. 181 (2006).

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Application of the MIAA case to LRTA

In the landmark *MIAA* case, the Court *En Banc*, citing the Administrative Code of 1987 (Administrative Code), distinguished between a GOCC and a government instrumentality and found that petitioner therein Manila International Airport Authority (MIAA) is a government instrumentality and not a GOCC. The Court explained as follows:

> Respondents argue that MIAA, being a [GOCC], is not exempt from real estate tax. x x x
>
> There is no dispute that a [GOCC] is not exempt from real estate tax. However, MIAA is **not** a [GOCC]. Section 2(13) of the Introductory Provisions of the Administrative Code of 1987 defines a [GOCC] as follows:
>
> SEC. 2. *General Terms Defined.* — 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.
>
> A [GOCC] must be "**organized as a stock or non-stock corporation**." MIAA is not organized as a stock or non-stock corporation. MIAA is not a stock corporation because it has **no capital stock divided into shares**. MIAA has no stockholders or voting shares. x x x
>
> x x x x
>
> 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**." MIAA has capital but it is not divided into shares of stock. MIAA has no stockholders or voting shares. Hence, MIAA is not a stock corporation.
>
> MIAA is also not a non-stock corporation because it has no members. Section 87 of the Corporation Code defines a non-stock corporation as "one where no part of its income is distributable as dividends to its members, trustees or officers." A non-stock corporation must have members. Even if we assume that the Government is considered as the

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sole member of MIAA, this will not make MIAA a non-stock corporation. Non-stock corporations cannot distribute any part of their income to their members. Section 11 of the MIAA Charter mandates MIAA to remit 20% of its annual gross operating income to the National Treasury. This prevents MIAA from qualifying as a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are "organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers." MIAA is not organized for any of these purposes. MIAA, a public utility, is organized to operate an international and domestic airport for public use.

Since MIAA is neither a stock nor a non-stock corporation, MIAA does not qualify as a government-owned or controlled corporation. What then is the legal status of MIAA within the National Government?

MIAA is a **government instrumentality** vested with corporate powers to perform efficiently its governmental functions. MIAA is like any other government instrumentality, the only difference is that MIAA is vested with corporate powers. Section 2(10) of the Introductory Provisions of the Administrative Code defines a government "**instrumentality**" as follows:

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[3]

Applying the parameters laid down in the *MIAA* case to determine whether a government agency is an instrumentality or a GOCC, the Court thereafter ruled in the *2019 LRTA* case that the LRTA is an instrumentality of the government vested with corporate powers to efficiently perform its governmental functions, and not a GOCC.

For context, in the *2019 LRTA* case, the local government of Quezon City issued warrants of levy on the LRTA's properties on

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[3] Id. at 209-212; emphasis and italics in the original, citations omitted.

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which realty taxes had not been paid. The subject properties were eventually sold at public auction. But for lack of interested bidders, they were instead sold to Quezon City. Invoking the *MIAA* case, the LRTA sought to nullify the auction sale, claiming it is a government instrumentality and hence, exempt from RPT. The Court extensively discussed the reasons that led to its finding that the LRTA is a government instrumentality vested with corporate powers and not a GOCC. Consequently, the LRTA was declared exempt from RPT. Pertinent portions of the ruling read:

> Under their respective *Charters*, both the LRTA and the MIAA do not have capital stock that is divided into shares. To repeat, 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 dividends x x x." The LRTA and the MIAA have capital but it is not a capital stock or share capital, which is not divided into shares of stock. Neither of them has stockholders nor voting shares. Hence, the LRTA — as the MIAA — is not a stock corporation.
>
> The LRTA is also not a non[-]stock corporation because it has no members. Section 87 of the *Corporation Code* defines a non[-]stock corporation as "one where no part of its income is distributable as dividends to its members, trustees or officers." A non[-]stock corporation must have members. Even if we assume that the government is considered as the sole member of the LRTA, this will not make the LRTA a non[-]stock [corporation]. Section 88 of the *Corporation Code* provides that non-stock corporations are "organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers." The LRTA is not organized for any of these purposes. As a public utility, it is organized to operate the light rail transit system for public use.
>
> x x x x
>
> Here, the LRTA bears the elemental characteristics of a ***government instrumentality vested with corporate powers***. Consider:
>
> ***One***. The vesture of its ***corporate powers*** is found in Article 2 of Executive Order 603 otherwise known as "Creating a Light Rail Transit Authority, Vesting the same with Authority to Construct and Operate the Light Rail Transit (LRT) project and providing funds therefor," *viz.*:

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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. x x x.

Two. The LRTA ***performs governmental functions***. It is primarily responsible for the construction, operation, maintenance and/or lease of light rail transit systems in the country, giving due regard to the reasonable requirements of the public transportation system of the country. As explained in more detail below, the LRTA's functions are less commercial than governmental, and more for public use and public welfare than for profit-oriented services.

Three. 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.[4]

Further, the nature of the LRTA's properties was already fully threshed out in the *2019 LRTA* case. There, the Court determined that the properties registered in the name of the LRTA are for public use and classified as property of public dominion, and thus exempt from RPT under Section 234 (a) of the Local Government Code of 1991 (LGC):

To be sure, the LRTA and its properties are tasked to establish the light rail transit in the country. To pursue this mandate and purpose, the LRTA pioneered the construction of light rail transit infrastructure, which was financed through foreign loans. The revenues from the LRTA's operations were designed to pay for the loans incurred for its construction. The LRTA's operations were intended as a public utility rather than as a profit-making mechanism. The income which the LRTA generates is being used for its operations, especially the maintenance of rail tracks and trains. x x x

x x x x

Given the mandate and purpose of the LRTA, it stands to reason that the LRTA's railroads, carriageways, terminal stations and the lots

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[4] *Light Rail Transit Authority v. Quezon City*, supra note 1, at 602-610; underscoring, emphasis and italics in the original, citation omitted.

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on which they are found and/or constructed are properties of public dominion intended for public use. As such, they are exempt from real property tax under Section 234(a) of the Local Government Code.

x x x x

Undoubtedly, the light rail transit performs a crucial role in the lives of the people in Metro Manila. And the fact that by necessary implication, it has to pass through several local government units, the protection accorded to properties of public dominion for public use must be extended to the LRTA and its properties. Taking some or a portion of the railroads, railways, carriageways and terminal stations will literally hamper the operation of the light rail transit. Trains run on the rail tracks which are fastened to a concrete foundation resting on a prepared subsurface. Like an airport, the light rail transit has a terminal commonly known as the LRT station. It is a hub where passengers converge to buy train tickets and access the train facilities. It is also where the trains regularly stop to load or unload passengers. These properties are essential for the passenger transport and continued operation of the light rail transit, without which this massive transportation system will be paralyzed.[5]

That there was a *2018 LRTA* case[6] declaring that the LRTA is a GOCC and not a government instrumentality vested with corporate powers did not prevent the Court from rectifying the error. As it did a year later in the *2019 LRTA* case, the Court correctly applied prevailing jurisprudence. To be sure, the *MIAA* case has become the precedent in determining whether a government entity or agency is an instrumentality or agency of the National Government or a GOCC pursuant to their definitions under the Administrative Code. More importantly, in the *2019 LRTA* case, the Court had already determined the LRTA's status as a government instrumentality exercising corporate powers by applying the criteria set in the *MIAA* case.

The beneficial user is the one liable to pay the RPT

In ruling that the LRTA properties belong to the Republic of the Philippines and are exempt from RPT, the *ponencia* clarifies that

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[5] Id. at 617-621; citations omitted.

[6] *Light Rail Transit Authority v. City of Manila*, G.R. No. 212925, June 18, 2018 (Unsigned Resolution).

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portions of these properties that the LRTA leases to private entities are not exempt from RPT. The *ponencia* further cites an example that the land area occupied by private concessionaires in certain LRT lines and terminals should be subject to RPT and explicitly states that it is the **taxable person** who should pay the RPT.[7] Too, the *ponencia* states in the dispositive portion that all the RPT assessments, as well as the warrants of levy, issued by the City of Pasay, on the LRTA's properties are void, **except the assessment covering the portions that LRTA has leased to private parties, who are liable to pay the corresponding RPT**.[8]

I agree with the *ponencia's* ruling. The liability to pay RPT on government-owned properties leased to private entities devolves upon the taxable beneficial user.

I expound.

Section 234(a) of the LGC provides:

> 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[.]

Based on the foregoing, real property owned by the LRTA is generally exempt from the payment of RPT. However, such exemption ceases when *the **beneficial use** thereof has been granted, for consideration or otherwise, to a **taxable person***. Beneficial use means that the person or entity has the **actual use and possession** of the property.[9]

Section 234(a) of the LGC must likewise be read in conjunction with Section 205(d) of the same Code which provides:

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[7] *Ponencia*, p. 29.

[8] Id. at 30.

[9] *Herarc Realty Corporation v. Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018, 879 SCRA 317, 326; emphasis supplied, citation omitted.

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SECTION 205. *Listing of Real Property in the Assessment Rolls.* — (a) In every province and city, including the municipalities within the Metropolitan Manila Area, there shall be prepared and maintained by the provincial, city or municipal assessor an assessment roll wherein shall be listed all real property, whether taxable or exempt, located within the territorial jurisdiction of the local government unit concerned. **Real property shall be listed, valued and assessed in the name of the owner or administrator, or anyone having legal interest in the property**.

x x x x

(d) **Real property owned by the Republic of the Philippines**, its **instrumentalities** and political subdivisions, **the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee** or of the public entity if such property has been acquired or held for resale or lease. (Emphasis and underscoring supplied)

Assessment is the act or process of determining the value of the property for purposes of taxation.[10] Thus, in mandating that the **assessment be made "in the name of the possessor" of the property**, the law clearly holds liable for RPT the taxable person or entity which has the beneficial use of the property — and **not** the Republic of the Philippines, government instrumentality or political subdivision, who owns the property.

Sections 234(a) and 205(d) of the LGC had their counterparts in Sections 40 and 8, respectively of Presidential Decree No. 464[11] or the 1974 Real Property Tax Code, to wit:

SECTION 8. *Listing of Real Property in the Assessment Rolls.* – In every province and city, there shall be prepared and maintained by the provincial or city assessor an assessment roll wherein shall be listed all real property, whether taxable or exempt, located within the province or city. Real property shall be listed and valued in the name of the owner or administrator, or anyone having legal interest in the property.

x x x x

Real property owned by the Republic of the Philippines, its political subdivisions and any government-owned corporation so exempt by its

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[10] LOCAL GOVERNMENT CODE OF 1991, Title II, Chapter I, Sec. 199(f).

[11] ENACTING A REAL PROPERTY TAX CODE, approved on May 20, 1974.

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charter, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed for purposes of taxation in the name of the grantee, or of the public entity if such property has been acquired for resale or lease.

x x x x

SECTION 40. *Exemptions from Real Property Tax.* – The exemption shall be as follows:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned corporation so exempt by its charter: *Provided; however*, That this exemption shall not apply to real property of the abovenamed entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person.[12]

Imposing the liability to pay RPT on the beneficial user flows from the fundamental principle governing our real estate taxation —that the assessment of real property shall be based on its actual use. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.[13]

Prior to the 1974 Real Property Tax Code, real property was taxed on the basis of ownership or interest tantamount to ownership.[14] Later, the 1974 Real Property Tax Code changed the basis of real property taxation by adopting a policy of taxing real property ***on the basis of actual use, even if the user is not the owner***.[15] Thus, Sections 2, 3(a) and 19 thereof provide:

SECTION 2. *Fundamental Principles.* – The appraisal and assessment of real property for taxation purposes shall be guided by the following fundamental principles:

x x x x

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[12] The difference between the subject Sections in the LGC and the 1974 Real Property Tax Code is the exclusion of government-owned corporations in the former.

[13] LOCAL GOVERNMENT CODE OF 1991, Title II, Chapter I, Sec. 199(b).

[14] *Province of Nueva Ecija v. Imperial Mining Co., Inc.*, 204 Phil. 262, 265 (1982).

[15] Id. at 265; emphasis supplied.

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3) Real property shall be classified for assessment purposes on the basis of its actual use;

x x x x

SECTION 3. *Definition of Terms.* – When used in this Code. –

a) *Actual use* – shall refer to the purpose for which the property is principally or predominantly utilized by the persons in possession of the property.

x x x x

Special Classes of Real Property. –

x x x x

SECTION 19. *Actual Use of Real Property as Basis for Assessment.* – Real property shall be assessed on the basis of its actual use regardless of where located and whoever uses it.

It bears emphasis that the afore-quoted provisions were, again, reproduced in the LGC, to wit:

SECTION 198. *Fundamental Principles.* – The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:

x x x x

(b) Real property shall be classified for assessment purposes on the basis of its actual use;

x x x x

SECTION 199. *Definition of Terms.* – When used in this Title, the term:

x x x x

(b) "Actual Use" refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof;

x x x x

SECTION 217. *Actual Use of Real Property as Basis for Assessment.* – Real property shall be classified, valued and assessed on the basis of its actual use regardless of where located, whoever owns it, and whoever uses it.

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In addition, jurisprudence is replete with cases following the above consistent provisions of the 1974 Real Property Tax Code and the LGC.

The earliest case is the 1980 case of *City of Baguio v. Busuego*,[16] where a real property tax collection suit was instituted by the local government unit against the purchaser in installment of the property belonging to the Government Service Insurance System (GSIS). The Court found that under the parties' contract to sell, the beneficial use of the property was transferred to the purchaser. The contract also clearly imposed upon the purchaser the obligation to pay the real property tax even if GSIS, a government corporation, is exempt from real property taxes. According to the Court, such contractual stipulation is valid and binding. It is premised on the principle that "**the sole determinative factor for exemption from realty taxes is the 'use' to which the property is devoted[.] And where 'use' is the test, the ownership is immaterial.**"[17] The Court also found that such agreement was in conformity with Section 40(a) of the 1974 Real Property Tax Code. Thus, the Court held that on the strength of the provision of Section 40(a), the said property is not exempt from real property tax. Consequently, the purchaser was made liable to pay the real property taxes from the time the possession of such property was transferred to him, although pending full payment of the purchase price, the seller GSIS retains ownership and title over the property.[18]

In the 1990 case of *Testate Estate of Concordia T. Lim v. City of Manila*[19] (*Testate Estate of Concordia Lim* case), the plaintiff therein was assessed for RPT, which accrued at the time the properties were still in the name of GSIS because, based on the Deed of Absolute Sale, plaintiff allegedly assumed to pay the taxes due. However, during the time GSIS held the titles, the said properties were leased to other persons. Plaintiff nonetheless paid the assessed taxes under protest and later on filed a claim

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16 188 Phil. 218 (1980).

17 Id. at 223, citing Martin on the Rev. Adm. Code, 1961, Vol. II, p. 487; emphasis supplied.

18 Id. at 220.

19 261 Phil. 602 (1990).

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for refund. The Court granted plaintiff's claim and ordered the local government unit to refund the taxes paid under protest. Citing Sections 3(a) and 19 of the 1974 Real Property Tax Code, the Court held that "**[i]n 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**."[20]

The Court also ruled that not even GSIS can be made liable for the tax on the subject properties leased to other persons because "tax should be based on 'actual use' of the property."[21] This finds support in the clear provision of Section 40 of the 1974 Real Property Tax Code. The Court further held that "**if there is anyone liable [for payment of real property tax,] the law and applicable jurisprudence point to the lessees of land owned by the [GOCC]**."[22] The Court, however, did not rule on the liabilities of the lessees because their identities were not clear as they were never impleaded.[23]

The ratio in the foregoing earlier cases was also applied by the Court in succeeding cases governed by the provisions of the LGC. In the cases of *Republic of the Philippines v. City of Kidapawan*,[24] *National Power Corporation v. Province of Quezon, et al.*,[25] (*NPC* case) and *GSIS v. City Treasurer of the City of Manila*,[26] where property of the Republic of the Philippines or a government instrumentality is leased or transferred to taxable private individuals or entities, the Court held that liability to pay real property taxes devolves upon the taxable beneficial user. The Court explained that while generally, the liability for taxes rests on the owner of the real property at the time the tax accrues owing to the necessary consequence that proceeds from the fact of

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[20] Id. at 607; emphasis supplied, citations omitted.

[21] Id. at 611.

[22] Id., citing *Province of Nueva Ecija v. Imperial Mining Co., Inc.*, supra note 14; emphasis supplied.

[23] Id.

[24] 513 Phil. 440 (2005).

[25] 610 Phil. 456 (2009).

[26] G.R. No. 186242, December 23, 2009, 609 SCRA 330.

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ownership,[27] personal liability for realty taxes may also expressly vest on the entity with the beneficial use of the real property.[28] This situation happens when tax is imposed on the property owned by the government but leased to private persons or entities, or when the tax assessment is made on the basis of the actual use of the property.[29] In either case, the Court has consistently emphasized that "**the unpaid realty tax attaches to the property but is directly chargeable against the taxable person who has *actual and beneficial use and possession* of the property regardless of whether or not that person is the owner**."[30]

Furthermore, very recent cases promulgated by the Court reiterate the tax liability of the beneficial user.

In the 2018 case of *Herarc Realty Corporation v. Provincial Treasurer of Batangas*,[31] the Court stressed anew its ruling in *Testate Estate of Concordia Lim* case that the liability to pay real property taxes on government-owned property rests on the taxable entity exercising actual and beneficial use thereof, *viz.*:

> x x x 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.

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[27] *National Power Corporation v. Province of Quezon, et al.*, supra note 25, at 467, citing *City of Baguio v. Busuego*, supra note 16.

[28] Id., citing *Republic of the Philippines v. City of Kidapawan*, supra note 24, at 467, also citing Vitug and Acosta, *Tax Law and Jurisprudence* (2000 ed.), p. 490.

[29] Id.

[30] Id. at 467-468; emphasis and italics in the original, citations omitted.

[31] Supra note 9.

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x x x **The tax exemption [that] 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**. x x x[32]

In the 2019 case of *Privatization and Management Office v. Court of Tax Appeals*,[33] the Court recognized that the local government unit correctly assessed for unpaid real property taxes the private entity to whom the government had leased its property. Citing the *NPC* case, the Court held that the private entity, who was the actual and beneficial user of the subject property, is the one directly charged with the payment of tax and not the government entity who owns the property.[34]

In the same year, the Court decided the *2019 LRTA* case in which the Court stated that the liability to pay RPT on government-owned properties falls on the beneficial user:

> In sum, a government instrumentality though vested with corporate powers [is] 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**.[35]

Thus, in the *2019 LRTA* case, the Court declared void all tax assessments and final notices of tax delinquencies issued by Quezon City in the name of the LRTA, as well as the public auction sale of the LRTA's properties and the corresponding certificates of

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[32] Id. at 325-328; emphasis and underscoring supplied, citations omitted.

[33] G.R. No. 211839, March 18, 2019, 897 SCRA 231.

[34] Id. at 241.

[35] *Light Rail Transit Authority v. Quezon City*, supra note 1, at 612-613; emphasis and underscoring supplied; italics omitted.

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sale issued to Quezon City. The Court further ruled that "[t]he local government of Quezon City **may assess and collect** real property taxes only from those private parties, if any, to whom the [LRTA] may have leased its real property for use by private parties for their private purpose."[36]

In the 2020 case of *Philippine Heart Center v. The Local Government of Quezon City*[37] (*Philippine Heart Center* case), the Court reiterated that the RPT exemption granted by the LGC to a government instrumentality does not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested. Thus, Section 234 of the LGC allows the imposition of RPT on such properties and the taxable person with beneficial use bears the burden of paying the RPT due thereon. Any remedy for the assessment and collection of RPT should then be directed against the taxable person.[38]

In the 2021 case of *Estampador v. The City Assessor of Manila*,[39] the Court was tasked to resolve who between the property owner and the beneficial user the tax liability falls. Citing the *Philippine Heart Center* case, the Court held that the beneficial user bears the responsibility of paying the RPT that accrued on the parcel of land during the effectivity of the lease agreement. The beneficial user, therefore, is not entitled to claim a refund of the RPT paid under protest.[40]

Still further, the Court just this year held in *Unimasters Conglomeration, Inc. v. Tacloban City Government*[41] that the burden of paying the RPT due on the lease of the hotel passed on to the private entity as the beneficial user thereof. Therein, the hotel in question is owned in common by the Province of Leyte (a political subdivision), as well as by the Privatization and

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36 Id. at 622; emphasis in the original.

37 G.R. No. 225409, March 11, 2020.

38 Id.

39 G.R. No. 227288, March 18, 2021 (Unsigned Resolution).

40 Id.

41 G.R. No. 214195, March 23, 2022.

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Management Office (PMO) and Philippine Tourism Authority, both of which are government instrumentalities exempt from paying RPT. These co-owners entered into a Contract of Lease with the private entity for the hotel. When the private entity stopped paying RPT despite demand, the City Treasurer of Tacloban instituted a collection case against the co-owners and the private entity. The Court of Tax Appeals (CTA) Division and CTA *En Banc* found the private entity liable to pay the unpaid RPT. When the case reached this Court, it agreed with the CTA *En Banc* that the private entity, as the lessee of the hotel and the possessor and beneficial user thereof, was liable for RPT.[42]

At the risk of being repetitive, I reiterate that: "the unpaid realty tax attaches to the property but is directly chargeable against the taxable person who has actual and beneficial use and possession of the property regardless of whether or not that person is the owner."[43]

Applying the foregoing principles to the present LRTA case, I agree that only portions of the LRTA properties leased to taxable persons like the private concessionaires are subject to RPT by the City of Pasay.

While I recognize that the private concessionaires cannot be held liable for RPT in the present case because they were not impleaded as parties, the liability to pay the RPT ultimately falls on them (private concessionaires) because they have been granted actual and beneficial use of the portions of the LRTA properties. In other words, the tax exemption, which the LRTA carries, is withdrawn the moment the private concessionaires are granted beneficial use over the LRTA's real properties. Since then, the tax liability has accrued, and the corresponding duty to pay the RPT has devolved upon the private concessionaires as the taxable beneficial user.

Accordingly, I concur that the Petition should be **GRANTED**.

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[42] Id.

[43] Id., citing *MWSS v. Central Board of Assessment Appeals*, G.R. No. 215955, January 13, 2021.

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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.

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

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1 396 Phil. 860 (2000).

2 G.R. No. 221626, 09 October 2019.

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

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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,**

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[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.

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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] 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**.

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

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[7] Id.

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

[9] Id.; *See* THE LOCAL GOVERNMENT CODE, Secs. 226 and 252.

[10] Supra

[11] G.R. No. 215955, 13 January 2021.

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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**.

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 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

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[12] 528 Phil. 181 (2006).

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

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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) 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

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[14] Supra.

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

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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. —
>
> 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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[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.

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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

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No. 194388, 07 November 2018; and *Manila International Airport Authority v. Court of Appeals*, supra.

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 Appeals*, 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.

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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 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

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

[22] Supra.

[23] Id.

[24] *See Peñafrancia Shipping Corp. v. 168 Shipping Lines, Inc.*, G.R. No. 188952, 21 September 2016.

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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 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]

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[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).

[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).

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Article 420. The following things are property of public dominion:

(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;

(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 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.

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[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.

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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

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[35] Supra.

[36] Supra at 337.

[37] Supra.

[38] Supra.

[39] *Ponencia*, p. 24.

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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 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.

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[40] Supra.

[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.