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SECOND DIVISION

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

LIGHT RAIL TRANSIT AUTHORITY, *petitioner, vs.* **QUEZON CITY, represented by the City Treasurer and the City Assessor,** *respondent.*

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; THE LOCAL GOVERNMENT CODE; LOCAL GOVERNMENT UNITS; POWER TO TAX; LOCAL GOVERNMENT UNITS HAVE THE POWER TO TAX REAL PROPERTY NOT OTHERWISE EXEMPT THEREFROM.—** The Local Government Code provides for the exercise by local government units of the power to tax, its scope or limitations, and those who are exempt from local taxation. On this score, Section 232 of the Code recognizes the power of the local government units to tax real property not otherwise exempt therefrom x x x. Section 234 of the Local Government Code (LGC) has withdrawn the previous real property tax exemptions granted to natural or juridical persons, including government-owned or controlled corporations, except as otherwise provided therein. The law ordains that only real properties owned by the Republic of the Philippines or any of its political subdivisions are exempt from real property tax.

2. **ID.; ID.; ADMINISTRATIVE AGENCIES; GOVERNMENT-OWNED OR CONTROLLED CORPORATION (GOCC); AN AGENCY IS A GOCC WHEN IT IS ORGANIZED AS A STOCK OR NON-STOCK CORPORATION.—** The Administrative Code of 1987 defines a government-owned and controlled corporation (GOCC) x x x. [A]n agency is a government-owned or controlled corporation when it is organized as a stock or non-stock corporation. A stock corporation is one that sources its capital through shares of stock and therefore has a share capital or capital stock, not just capital, whose capital stock is divided into shares, and who is authorized to distribute dividend to the holders of such share. A non-stock corporation, on the other hand, is one where no part of its income is

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distributable as dividends to its members, trustees, or officers. A non-stock corporation must have members. Consequently, to be considered as a GOCC, an entity must either be organized as a stock or non-stock corporation. Three (3) requisites must concur for one to be classified as a stock corporation, *viz*: (1) it has **capital stock**, (2) the capital stock is divided into shares, and (3) it is authorized to distribute dividends and allotments of surplus and profits to its stockholders. As for non-stock corporations, they must have members and must not distribute any part of their income to said members.

3. ID.; ID.; ID.; ID.; THE LIGHT RAIL TRANSIT AUTHORITY (LRTA) IS NOT A GOCC BECAUSE IT IS NEITHER A NON-STOCK CORPORATION AS IT HAS NO MEMBERS, NOR A STOCK CORPORATION AS IT DOES NOT HAVE CAPITAL STOCK THAT IS DIVIDED INTO SHARES.— The LRTA has statutory capital – but not capital stock or share capital. The wording of its capital structure is similar to that of the Manila International Airport Authority (MIAA). x x x 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.

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4. ID.; ID.; ID.; GOVERNMENT INSTRUMENTALITY VESTED WITH CORPORATE POWERS; ELEMENTS.— Subsection 10 (10) of the Administrative Code of 1987 defines an "*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." The Court had on several occasions clarified that the legal vesture of corporate powers in a government instrumentality does not negate its status as such. Notably, what is defined in the *Administrative Code of 1987* is an "instrumentality". The category of an ***instrumentality with corporate powers came*** into being by virtue of this Court's pronouncement in ***MIAA v. Court of Appeals***. Citing Section 2(10) of the *Administrative Code of 1987*, the Court characterized the Manila International Airport Authority (MIAA) as an instrumentality with corporate powers x x x. This classification was eventually adopted in Executive Order No. 596 (EO 596) which was enacted into law on December 29, 2006. It acknowledged the third classification of a government agency in addition to GOCCs and instrumentalities, viz: *government instrumentalities vested with corporate powers* and named as " government corporate entities" (GCE). EO 596 includes GCEs within the jurisdiction of the Office of the Government Corporate Counsel (OGCC). x x x In 2011, RA No. 10149, the *GOCC Governance Act of 2011* was passed into law adopting such new category under EO 596 x x x. Thus, the classification of Government Instrumentalities with Corporate Powers (GICP)/ Government Corporate Entities is now officially recognized. Examples of instrumentalities of the national government vested with corporate powers are the Manila International Airport Authority, the Philippine Fisheries Development Authority, the Government Service Insurance System, and the Philippine Reclamation Authority. These entities are government instrumentalities because each of them is not integrated within the department framework and is vested with special functions to carry out a declared policy of the national government. An agency will be classified as a government instrumentality vested with corporate powers when the following elements concur: a) it performs governmental functions, and b) it enjoys operational autonomy. It does not matter that the government instrumentality is endowed with corporate powers.

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The characterization of government instrumentality is not lost where the government entity possesses corporate status. These are not polar opposites. This is so especially when, despite the corporate status, it is really the resources and reputation of the Republic for a paramount public purpose that are at stake in the capitalization and operations of the government entity.

5. ID.; ID.; ID.; ID.; THE LRTA IS A GOVERNMENT INSTRUMENTALITY VESTED WITH CORPORATE POWERS AS IT PERFORMS GOVERNMENTAL FUNCTIONS AND ENJOYS OPERATIONAL AUTONOMY. — [T]he LRTA bears the elemental characteristics of a ***government instrumentality vested with corporate powers***. x x x 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." x x x. 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. x x x [T]he LRTA's functions are less commercial than governmental, and more for public use and public welfare than for profit-oriented services. x x x 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.

6. ID.; ID.; ID.; ID.; 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.— [A] ***government instrumentality though vested with corporate powers*** are exempt from real property tax, but the exemption shall not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested. The taxable private entities are subject to real property tax, ***but not the government instrumentality they have dealt with, much less, the properties of the government instrumentality subject of such beneficial use.*** Government entities falling under this category are exempt from real property

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tax. The reason for this exemption is found in Subsection 133 (o) of the Code x x x.

7. ID.; ID.; ID.; ID.; THE LRTA's RAILROADS, CARRIAGEWAYS, TERMINAL STATIONS, AND THE LOTS ON WHICH THEY ARE FOUND AND/OR CONSTRUCTED ARE PROPERTIES OF PUBLIC DOMINION INTENDED FOR PUBLIC USE AND AS SUCH, THEY ARE EXEMPT FROM REAL PROPERTY TAX.— 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 operations were designed to pay for the loans incurred for its construction. The LRTA 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. Section 2 of EO 603 provides for the re-capitalization of excess revenues and for such other purposes that will enhance the LRTA's mandate and purpose x x x. Based on an independent 2008-2009 field survey report, the LRTA income barely covered costs for operating expenses. The operating profit from the operation of Lines 1 and 2 was in a deficit. Reasons for plus net income in certain years were due to foreign exchange gain and infusion of subsidies from the government. As both a matter of social data and acceptable legal reasoning, it is erroneous to conclude that ***to date***, the LRTA has been engaged in profit-making business. **More than ever**, its gargantuan tasks are to establish and operate a viable public transportation system via the light rail trains to address the demands of the riding public and to alleviate the worsening traffic and transportation situation at least in Metro Manila. Given the mandate and purpose of the LRTA, it stands to reason that the LRTA's railroads, carriageways, terminal stations, and the lots 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 The fact that the LRTA may have entered into transactions with, short of alienating them, to private parties in relation to the establishment, operation, maintenance, and viability of a light rail transit in the country, does not detract

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from the characterization of the LRTA's properties as properties of public dominion for public use or public service. What is important is the role, nexus, and relevance that these properties play in the public use or public service purposes of the LRTA.

APPEARANCES OF COUNSEL

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

D E C I S I O N

LAZARO-JAVIER, *J.*:

Prefatory

The doctrine of precedents is fundamental to our legal system. It provides certainty while permitting the orderly development of the law in incremental steps. *Stare decisis*, however, is not a straitjacket which condemns the law to stasis or a state of suspended animation and disbelief. Where there is a change in the circumstances which fundamentally shifts the parameters of the debate, especially the collective thinking of the Court expressed in later decisions and the present social milieus on which our decisions will greatly impact, we have to understand and give effect to precedents in such new light.

The Case

This Petition for Review[1] seeks to nullify the following dispositions of the Regional Trial Court, Branch 95, Quezon City, in Civil Case No. Q-11-70303, entitled "*Light Rail Transit Authority vs. Quezon City, represented by the City Treasurer and the City Assessor*" for *Certiorari*, Prohibition and Injunction:

1. Decision[2] dated March 5, 2015, sustaining the realty taxes imposed by the local government of Quezon City on the LRTA's real properties.

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[1] *Rollo*, pp. 3-22; under Rule 45 of the Revised Rules of Court.

[2] *Id*. at 27-34.

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2. Order dated November 3, 2015, denying the LRTA's motion for reconsideration.

Antecedents

Pursuant to Executive Order No. 603[3] (EO 603) dated July 12, 1980, the Light Rail Transit Authority (LRTA) was created primarily to construct, operate, maintain, and/or lease the light rail transit system of the country. For this purpose, the LRTA acquired real properties[4] and commenced its operations in 1984.

On October 12, 2000, the Court rendered its decision in ***LRTA v. Central Board of Assessment Appeals (CBAA)***[5] involving the City of Manila's tax assessment on the LRTA's real properties consisting of lands, buildings, carriageways and passenger terminal stations, machinery, and equipment which the City of Manila considered taxable under the Real Property Tax Code. The Court ruled that the LRTA's properties had already been classified by law as patrimonial property subject to tax.

On October 15, 2007, the LRTA received several Statements of Delinquency and Final Notices of Tax Delinquency, this time, from respondent Quezon City. By letter[6] dated October 15, 2007, the LRTA informed Quezon City that pursuant to the subsequent case of ***MIAA v. Court of Appeals***,[7] the LRTA is a government instrumentality, thus, exempt from real propetty tax.[8]

Through the Office of the City Treasurer, Quezon City issued warrants of levy on the LRTA's properties on which realty taxes had not been paid.

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[3] 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.

[4] *Id*. at 4-5.

[5] 396 Phil. 860, 864 (2000).

[6] *Rollo*, p. 52.

[7] 528 Phil. 181, 245-246 (2006).

[8] *Rollo*, pp. 5-7, 52.

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On November 12, 2007, the LRTA again wrote Quezon City reiterating the effect of ***MIAA v. Court of Appeals***[9] on its status and tax exemption as a government instrumentality. Despite its continuous communication with the LRTA, however, Quezon City did not stop sending notices to the former for collection of realty taxes of Five Hundred Fifteen Million Two Hundred Four Thousand Seven Hundred Sixty-Nine and Thirteen Centavos (₱515,204,769.13).[10]

In December 2007, Quezon City auctioned the affected LRTA properties. But for lack of any interested bidder, these properties were instead sold to Quezon City pursuant to Sec. 263 of RA 7610, *viz:*[11]

Registered Owner	Location	Tax Declaration	Assessed Value	Actual Use
LRTA	Loyola Heights	D-056-09933	636,275,580.00	Commercial
LRTA	Mariana	D-061-07102	25,506,730.00	Commercial
LRTA	Kaunlaran	D-050-02656	281,163,250.00	Commercial
LRTA	Kaunlaran	D-050-02838	340,508,070.00	Commercial
LRTA	Bagumbahay	E-010-02906	203,751,440	Commercial
LRTA	Bagumbuhay	D-010-02867	33,460,930.00	Commercial
LRTA	E.Rodriguez	D-040-04992	420,598,970.00	Commercial
LRTA	Mariana	D-061-06701	212,350,740.00	Commercial
LRTA	E.Rodriguez	D-040-04802	340,260,790.00	Commercial
LRTA	Valencia	D-130-05857	102,410,250.00	Commercial
LRTA	Loyola Heights	D-056-09527	110,550,190.00	Commercial
LRTA	Loyola Heights	D-056-10467	147,668,500.00	Commercial
LRTA	Marilag	D-063-04730	279,948,100.00	Commercial
LRTA	Valencia	D-130-05856	200,072,650.00	Commercial
LRTA	Mariana	D-061-07103	314,349,440.00	Commercial
LRTA	Kaunlaran	D-050-02655	21,529,630.00	Commercial

On April 6, 2010, Quezon City again auctioned off another set of the LRTA properties,[12] thus:

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[9] *Supra* note 7.

[10] *Rollo*, pp. 5-7.

[11] *Id*.

[12] *Id*.

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Tax Declaration	Tax Liability	Purchase Price
E-050-0078	33,640.10	45,000.00
E-040-01350	26,948.48	6,467.76
E-040-01433	40,568.74	16,800.00
E-40-01352	34,791.80	8,350.03
E-130-00148	6,131.10	4,800.00
E-050-00080	7,624.78	2,400.00
E-061-00403	95,602.45	-
E-050-00084	35,048.10	-
E-063-00088	197,625.90	-

Meantime, the LRTA's right of redemption expired on April 4, 2011.[13] It thus filed a petition for *certiorari*, prohibition and injunction against Quezon City before the Regional Trial Court, which was raffled to Branch 95 and docketed as Civil Case No. Q-11-70303.

Invoking ***MIAA v. Court of Appeals,***[14] the LRTA asserted anew that it is a government instrumentality, hence, exempt from real property tax.[15]

For its part, Quezon City countered that the LRTA is not a government instrumentality but a government-owned and controlled corporation (GOCC). Its activities are proprietary in nature and not purely governmental. It is clothed with corporate status and powers, earns profit, and operates as an ordinary private corporation. EO 603 does not exempt the LRTA from real property taxes. The Local Government Code of 1991 has removed or withdrawn the tax exemptions of GOCCs. Consistent with the decision in ***LRTA v. CBAA***,[16] the LRTA is thus a taxable entity.[17]

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[13] *Id*.

[14] *Supra* note 7.

[15] *Rollo*, pp. 5-7.

[16] *Supra* note 5.

[17] *Rollo*, pp. 102-108.

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The Trial Court's Ruling

By Decision dated March 5, 2015, the trial court dismissed the petition. It held, among others, that the LRTA properties are taxable based on the Local Government Code and the Constitution. It further ruled that the taxability of the LRTA properties was already settled in ***LRTA v. CBAA***. The LRTA's reliance on ***MIAA v. CA*** was, therefore, allegedly misplaced.

The LRTA's motion for reconsideration was denied through Order dated November 3, 2015.[18]

The Present Petition

The LRTA now urges the Court to nullify the trial court's dispositions regarding its liability for real property tax. It reiterates that it is not a GOCC but a government instrumentality, hence, its properties are not taxable. The decision in ***Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu***[19] citing the 2006 MIAA case, superseded ***LRTA v. CBAA***. Its properties belong to the Republic of the Philippines and are intended for public use, hence, exempt from real property taxes.[20]

In its Comment,[21] Quezon City ripostes, in the main: a) the LRTA is not a government instrumentality but a GOCC; b) its activities are proprietary and not purely governmental; and c) it is profit earning and operating like a private corporation.

Issues

1) Is the LRTA a GOCC or a government instrumentality; and

2) Are the LRTA's properties subject to real property tax?

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[18] *Id*. at 35-36.

[19] 759 Phil. 296, 307-308 (2015); citing *MIAA v. Court of Appeals*, 528 Phil. 181 (2006).

[20] *Rollo*, pp. 10-17.

[21] *Id*. at 102-108.

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Ruling

The Local Government Code provides for the exercise by local government units of the power to tax, its scope or limitations, and those who are exempt from local taxation. On this score, Section 232 of the Code recognizes the power of the local government units to tax real property not otherwise exempt therefrom, *viz*:

Section 232. *Power to Levy Real Property Tax.* - A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.

Section 234 of the Code further enumerates the properties exempt from real property tax, *viz*:

Section 234. *Exemptions from Real Property Tax.* - The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;

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

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

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

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

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all

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persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby withdrawn upon the effectivity of this Code.

Section 234 of the Local Government Code (LGC) has withdrawn the previous real property tax exemptions granted to natural or juridical persons, including government-owned or controlled corporations, except as otherwise provided therein. The law ordains that only real properties owned by the Republic of the Philippines or any of its political subdivisions are exempt from real property tax.

The LRTA is not a government-owned and controlled corporation (GOCC).

The Administrative Code of 1987 defines a government-owned and controlled corporation (GOCC) in this wise:

(13) government-owned or controlled corporations refer 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 indirectly through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least 51% (fifty-one percent) of its capital stock.

Indeed, an agency is a government-owned or controlled corporation when it is organized as a stock or non-stock corporation. A stock corporation is one that sources its capital through shares of stock and therefore has a share capital or capital stock, not just capital, whose capital stock is divided into shares, and who is authorized to distribute dividend to the holders of such share.[22] A non-stock corporation, on the other hand, is one where no part of its income is distributable as dividends to its members, trustees, or officers. A non-stock corporation must have members.[23]

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[22] Sec. 3, Corporation Code, Batas Pambansa Blg. 68.

[23] Sec. 87, Corporation Code, Batas Pambansa Blg. 68.

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Consequently, to be considered as a GOCC, an entity must either be organized as a stock or non-stock corporation. Three (3) requisites must concur for one to be classified as a stock corporation, *viz*: (1) it has **capital stock**, (2) the capital stock is divided into shares, and (3) it is authorized to distribute dividends and allotments of surplus and profits to its stockholders. As for non-stock corporations, they must have members and must not distribute any part of their income to said members.[24]

Section 15 of the LRTA's Charter[25] decrees:

> 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 LRTA has statutory capital — but not capital stock or share capital. The wording of its capital structure is similar to that of the Manila International Airport Authority (MIAA). Section 10 of the MIAA Charter provides:

> SECTION 10. Capital. - The **capital** of the Authority to be contributed by the National Government shall be increased from Two and One-half Billion (₱2,500,000,000.00) Pesos to Ten Billion (₱10,000,000,000.00) Pesos to consist of .... (*emphasis added*)

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.

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[24] *Philippine Fisheries Development Authority v. Court of Appeals*, 555 Phil. 661, 668 (2007).

[25] EO 603.

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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.

In any case, having a GOCC status does not at once disqualify one from real property tax exemption. Having a GOCC status simply means that the GOCC must find a legal basis for claiming real property tax exemption other than what was previously granted to it under the old real property tax laws which *Local Government Code* has already repealed. It is in this light that the LRTA's status as a *government instrumentality* assumes importance for the purpose of claiming real property tax exemption.

The LRTA is a government instrumentality exercising corporate powers

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Is the LRTA a government instrumentality exempt from real property tax?

Respondent maintains that the LRTA is not a government instrumentality but per ***LRTA v. CBAA***, one clothed with corporate status and powers necessary in the furtherance of its proprietary objectives. It operates much like any private corporation engaged in the mass transport industry. Since it is

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engaged in a service-oriented commercial endeavor, its carriageways and terminal stations are consequently patrimonial property subject to tax.

A dispassionate closer reading of ***LRTA v. CBAA*** reveals **what it *is not***. It never held at all, that having a corporate status and corporate powers *per se* automatically disqualifies the entity from claiming real property tax exemption. For corporate status and corporate powers came about in ***LRTA v. CBAA*** simply *to illustrate and reinforce the* ***holding*** *that LRTA's operation is that of an ordinary business,* ***which is to earn profit***. Thus:

> Though the creation of the LRTA was impelled by public service — to provide mass transportation to alleviate the traffic and transportation situation in Metro Manila — **its operation undeniably partakes of ordinary business**. Petitioner is clothed with corporate status and corporate powers in the furtherance of its proprietary objectives. Indeed, **it operates much like any private corporation engaged in the mass transport industry**. Given that it is engaged in a service-oriented **commercial** endeavor, its carriageways and terminal stations are patrimonial property subject to tax, notwithstanding its claim of being a government-owned or controlled corporation.... These carriageways and terminal stations serve a function different from that of the public roads. The former are part and parcel of the light rail transit (LRT) system which, unlike the latter, **are not open to use by the general public. The carriageways are accessible only to the LRT trains, while the terminal stations have been built for the convenience of LRTA itself and its customers who pay the required fare**.
>
> Basis of Assessment Is Actual Use of Real Property
>
> Under the Real Property Tax Code, real property is classified for assessment purposes on the basis of actual use, which is defined as "the purpose for which the property is principally or predominantly utilized by the person in possession of the property.
>
> Petitioner argues that it merely operates and maintains the LRT system, and that the actual users of the carriageways and terminal stations are the commuting public. It adds that the public-use character of the LRT is not negated by the fact that revenue is obtained from the latter's operations.

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We do not agree. **Unlike public roads which are open for use by everyone, the LRT is accessible only to those who pay the required fare. It is thus apparent that petitioner does not exist solely for public service**, and that **the LRT carriageways and terminal stations are not exclusively for public use**. Although petitioner is a public utility, **it is nonetheless profit-earning**. It actually uses those carriageways and terminal stations in its public utility business and **earns money therefrom**. *(emphasis added)*

In fine, ***LRTA v. CBAA*** was decided against the LRTA because of the conclusions of law then that the principal or predominant use of the LRTA properties was for ordinary business, that is, an activity for earning money, and as such, the LRTA was disqualified from real property tax exemption. The ruling was not because LRTA had corporate status and corporate powers, as these matters were used merely to prop up the foregoing conclusions of law.

LRTA v. CBAA has to be understood *now in* light of the developments brought about by the 2006 ruling in ***MIAA v. CA*** and 2015 case law of ***MCIAA v. City of Lapu-Lapu***, reiterating ***MIAA v. CA***. The conclusions reached in ***LRTA v. CBAA*** must also be considered in light of **present-day social milieu of great public impact** from which we cannot isolate our decision.

Our inquiry begins with the status of LRTA as a government instrumentality.

Subsection 10 (10) of the Administrative Code of 1987 defines an "*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." The Court had on several occasions clarified that the legal vesture of corporate powers in a government instrumentality does not negate its status as such.

Notably, what is defined in the *Administrative Code of 1987* is an "instrumentality". The category of an ***instrumentality***

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with corporate powers came into being by virtue of this Court's pronouncement in ***MIAA v. Court of Appeals***. Citing Section 2(10) of the *Administrative Code of 1987*, the Court characterized the Manila International Airport Authority (MIAA) as an instrumentality with corporate powers:

> 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 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
>
> 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 x x x Likewise, when the law makes a government instrumentality operationally autonomous, the instrumentality remains part of the National Government machinery although not integrated with the department framework x x x
>
> Many government instrumentalities are vested with corporate powers but they do not become stock or non-stock corporations, which is a necessary condition before an agency or instrumentality is deemed a government-owned or controlled corporation x x x These government instrumentalities are sometimes loosely called government corporate entities. However, they are not government-owned or controlled corporations in the strict sense as understood under the Administrative Code, which is the governing law defining the legal relationship and status of government entities.

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This classification was eventually adopted in Executive Order No. 596 (EO 596) which was enacted into law on December 29, 2006. It acknowledged the third classification of a government agency in addition to GOCCs and instrumentalities, viz: *government instrumentalities vested with corporate powers* and named as "government corporate entities" (GCE). EO 596 includes GCEs within the jurisdiction of the Office of the Government Corporate Counsel (OGCC). Section 1 of EO 596 states:

> Section 1. The Office of the Government Corporate Counsel (OGCC) shall be the principal law office of all GOCCs, except as may otherwise be provided by their respective charter or authorized by the President, their subsidiaries, corporate offsprings, and government acquired asset corporations. The OGCC shall likewise be the principal law office of "government instrumentality vested with corporate powers" or "government corporate entity," as defined by the Supreme Court in the case of "*MIAA vs. Court of Appeals, City of Parañaque, et al.*," *supra*, notable examples of which are: Manila International Airport Authority (MIAA), Mactan International Airport Authority, the Philippine Ports Authority (PPA), Philippine Deposit Insurance Corporation (PDIC), *Metropolitan Water and Sewerage Services (MWSS)*, Philippine Rice Research Institute (PRRI), Laguna Lake.
>
> Development Authority (LLDA), Fisheries Development Authority (FDA), Bases Conversion Development Authority (BCDA), Cebu Port Authority (CPA), Cagayan de Oro Port Authority, and San Fernando Port Authority.

In 2011, RA No. 10149, the *GOCC Governance Act of 2011* was passed into law adopting such new category under EO 596:

> (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

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(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).

Thus, the classification of Government Instrumentalities with Corporate Powers (GICP)/Government Corporate Entities is now officially recognized.

Examples of instrumentalities of the national government vested with corporate powers are the Manila International Airport Authority, the Philippine Fisheries Development Authority, the Government Service Insurance System, and the Philippine Reclamation Authority. These entities are government instrumentalities because each of them is not integrated within the department framework and is vested with special functions to carry out a declared policy of the national government.[26]

An agency will be classified as a government instrumentality vested with corporate powers when the following elements concur: a) it performs governmental functions, and b) it enjoys operational autonomy. It does not matter that the government instrumentality is endowed with corporate powers.

The characterization of government instrumentality is not lost where the government entity possesses corporate status. These are not polar opposites. This is so especially when, despite the corporate status, it is really the resources and reputation of the Republic for a paramount public purpose that are at stake in the capitalization and operations of the government entity.

Here, the LRTA bears the elemental characteristics of a ***government instrumentality vested with corporate powers***. Consider:

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[26] *City of Lapu-Lapu v. Phil. Economic Zone Authority*, 748 Phil. 473, 541 (2014).

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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*:

> 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. xxx.

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.[27] 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.[28]

The next inquiry hinges on the tax-exempt status of government instrumentalities vested with corporate powers.

Respondent relies on ***LRTA v. CBAA*** case in arguing that the LRTA's real properties are not tax exempt. We should however tread carefully when reading ***LRTA v. CBAA***. The Court has already clarified the tax-exempt status of ***government instrumentalities vested with corporate powers*** in the following cases:

In ***MIAA v. Court of Appeals,***[29] the Court pronounced that MIAA is a government instrumentality vested with corporate

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[27] Sec. 2, Art. 1, EO 603

[28] Sec. 3, Art. 1, EO 603.

[29] *Supra* note 7.

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powers to perform efficiently its governmental functions. A government **instrumentality** like MIAA falls under Section 133(o) of the Local Government Code which recognizes the basic principle that local governments cannot tax the national government.

In ***Philippine Fisheries Development Authority (PFDA) v. Court of Appeals,***[30] the Court held that PFDA is an instrumentality of the national government, hence, exempt from real property tax, albeit the exemption does not extend to such portions of the property, the beneficial use of which are vested in private entities. In any event, when local governments invoke the power to tax on national government instrumentalities, such power is construed strictly against local governments.

In ***MIAA v. City of Pasay,***[31] the Court reiterated that MIAA is a government instrumentality exempt from any kind of tax from the local governments.

In ***Government Service Insurance System v. City Treasurer of the City of Manila***[32] the Court ruled that GSIS as an instrumentality of the national government is itself not liable to pay real estate taxes assessed by the City of Manila against its Katigbak and Concepcion-Arroceros properties. The liability devolves on the taxable beneficial user of these properties, but not upon GSIS and any of its properties though the subject of transactions. Consequently, the Katigbak property cannot be subject to a public auction sale, notwithstanding the realty tax delinquency assessed on this property. This means that the City of Manila may satisfy its tax claim by assessing the taxable beneficial user of the Katigbak property and, in case of nonpayment, by execution, but through means other than the sale at public auction of the leased property of GSIS.[33]

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[30] *Supra* note 24.

[31] 602 Phil. 160, 209 (2009).

[32] 623 Phil. 964, 982 (2009).

[33] *Id*.

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In ***City of Lapu-Lapu v. Phil. Economic Zone Authority, (PEZA),***[34] the Court held that PEZA is an instrumentality of the national government. Further, the lands owned by the PEZA are real properties owned by the Republic of the Philippines itself. The City of Lapu-Lapu and the Province of Bataan therefore, cannot collect real property taxes from the PEZA.

In ***Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu and Pacaldo,***[35] the Court reiterated that MCIAA like MIAA is an instrumentality of the government; thus, its properties which are actually, solely, and exclusively used for public purposes, consisting of the airport terminal building, airfield, runway, taxiway and the lots on which they are situated, are not subject to real property tax and respondent City was not justified in collecting taxes from the MCIAA on these properties.

In the fairly recent case of ***Metropolitan Waterworks and Sewerage System v. Local Government of Quezon,***[36] the Court stressed anew that a government instrumentality exercising corporate powers is not liable for real property taxes on its properties unless it is alleged and proven that the beneficial use of its properties has been extended to a taxable person.

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

Government entities falling under this category are exempt from real property tax. The reason for this exemption is found in Subsection 133 (o) of the Code, *viz*:

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[34] *Supra* note 26.

[35] *Supra* note 19.

[36] G.R. No. 194388, November 7, 2018.

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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 x x x x x

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

As eruditely explained in ***MIAA v. CA***:

Section 133(o) recognizes the basic principle that local governments cannot tax the national government, which historically merely delegated to local governments the power to tax. While the 1987 Constitution now includes taxation as one of the powers of local governments, local governments may only exercise such power "subject to such guidelines and limitations as the Congress may provide."

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.*:[37]

> 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.

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[37] 295 Phil. 252, 290 (1991).

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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.

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*:[38]

> 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." (citations omitted)
>
> 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).

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[38] 274 Phil. 323, 339-340 (1991).

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> 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.

The LRTA operations and properties of public dominion are devoted to public use and public welfare, hence, are owned by the Republic of the Philippines, and for legal and socially significant reasons, are exempt from real property taxes and the means to collect such taxes.

The analysis provided by the *En Banc* decision in ***MIAA v. CA*** fully demonstrates that LRTA is not engaged in a profit-earning business like a private corporation. ***LRTA v. CBAA*** held that LRTA was engaged in an ordinary business because it was charging fees for the use of its properties. This reasoning no longer holds water. We adopt in full the disquisition of the *En Banc* in ***MIAA v. CA***:

> 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

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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.

The terminal fees MIAA charges to passengers, as well as the landing fees MIAA charges to airlines, constitute the bulk of the income that maintains the operations of MIAA. The collection of such fees does not change the character of MIAA as an airport 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.

Verily, ***MIAA v. CA*** relevantly addresses the present social milieu which the provision of public transportation plays in the lives of our people. Indeed, with so much public expenses to take care of, the government cannot be left alone to fully fund all public services which are essential to the viability of our communities, most especially our means of public transportation. Hence, the mere fact that consumers must pay all, or in the case of the operations of our light rail transit, some of the expenses, should not detract from the nature of the service the government entity offers or the characterization of all the infrastructure which the operations require.

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 operations were designed to pay for the loans incurred for its construction. The LRTA operations were intended as a public utility rather than as a profit-making mechanism.[39] The income which the LRTA generates is being used for its operations, especially the maintenance of rail tracks and trains. Section 2 of EO 603 provides for the re-capitalization of excess revenues and for such other purposes that will enhance the LRTA's mandate and purpose:

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[39] http://www.lrta.gov.ph/index.php/history.

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The Authority shall conduct its business, according to prudent commercial principles and shall ensure, as far as possible, that its revenues for any given year are, at least sufficient to meet its expenditures. Any excess of revenues over expenditure in any fiscal year may be applied by the Authority in any way consistent with this Order, including such provisions for the renewal of capital assets and the repayment of loans, as the Authority may consider prudent.

Based on an independent 2008-2009 field survey report, the LRTA income barely covered costs for operating expenses. The operating profit from the operation of Lines 1 and 2 was in a deficit. Reasons for plus net income in certain years were due to foreign exchange gain and infusion of subsidies from the government.[40]

As both a matter of social data and acceptable legal reasoning, it is erroneous to conclude that ***to date***, the LRTA has been engaged in profit-making business. **More than ever**, its gargantuan tasks are to establish and operate a viable public transportation system via the light rail trains to address the demands of the riding public and to alleviate the worsening traffic and transportation situation at least in Metro Manila.[41]

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

City of Lapu-Lapu v. Phil. Economic Zone Authority[42] teaches:

Properties of public dominion are outside the commerce of man. These properties are exempt from "levy, encumbrance or disposition

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[40] https://www2.jica.go.jp/en/evaluation/pdf/2008_PH-P171_4.pdf.

[41] http://www.lrta.gov.ph.

[42] G.R. Nos. 184203 & 187583, [November 26, 2014], 748 Phil. 473-568.

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through public or private sale. As this court explained in *Manila International Airport Authority*:

> 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.
>
> On the other hand, all other properties of the state that are not intended for public use or are not intended for some public service or for the development of the national wealth are patrimonial properties. Article 421 of the Civil Code of the Philippines provides:
>
> > Art. 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property.
>
> Patrimonial properties are also properties of the state, but the state may dispose of its patrimonial property similar to private persons disposing of their property. Patrimonial properties are within the commerce of man and are susceptible to prescription, unless otherwise provided.

MIAA v. CA identifies the locus of ownership of properties of public dominion for public use — the Republic of the Philippines. If any of these properties are titled in the name of specific government entities, the latter only hold the legal title for the ultimate benefit of the Republic and the sovereignty.

The light rail transit system is one of the major means of transportation in Metro Manila. The bulk of public commuters takes the light rail transit to go to and from their residences and places of work and other places of social interaction.

The light rail transit passes along several cities and municipalities. There are two (2) LRT lines, the green and blue lines. The Light Rail Transit System Line No. 1 consists of the 15km elevated railway system servicing the Taft Avenue - Rizal Avenue route between Baclaran, Pasay City and the Bonifacio Monument in the City of Caloocan. The Megatren, more popularly known by its generic name Line 2, is a 13.8km mass transit line that traverses five (5) cities in Metro Manila, namely

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Pasig, Marikina, Quezon City, San Juan, and Manila, along the major thoroughfares of Marcos Highway, Aurora Boulevard, Ramon Magsaysay Boulevard, Legarda, and Recto Avenue.[43]

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.[44] 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.[45] It is also where the trains regularly stop to load or unload passengers.[46] 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.

The fact that the LRTA may have entered into transactions with, short of alienating them, to private parties in relation to the establishment, operation, maintenance, and viability of a light rail transit in the country, does not detract from the characterization of the LRTA's properties as properties of public dominion for public use or public service. What is important is the role, nexus, and relevance that these properties play in the public use or public service purposes of the LRTA.

ACCORDINGLY, the Court **GRANTS** the petition and **NULLIFIES** the Decision dated March 5, 2015 and Order

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[43] http://www.lrta.gov.ph/index.php/railway-operations.

[44] http://www.railway-technical.com/.

[45] http://www.railway-technical.com/books-papers-articles/railway-stations-pc-fs-2012.pdf.

[46] https://www.brainkart.com/article/Purpose-of-a-Railway-Station_4342/.

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dated November 3, 2015 of the Regional Trial Court, Branch 95, Quezon City, in Civil Case No. Q-11-70303.

The Court **DECLARES** that:

1. The Light Rail Transit Authority (LRTA) and its properties utilized in relation to the establishment, operation, maintenance, and viability of the light rail transit in the country are **EXEMPT** from real property taxes, among them, those imposed by the local government of Quezon City.
2. All real property tax assessments, as well as final notices of real property tax delinquencies issued by the Quezon City government on the Light Rail Transit Authority and its properties are **VOID**.
3. The December 2007 and April 6, 2010 sales at public auction of the properties of the Light Rail Transit Authority, the forfeiture and purchase of these properties by the local government of Quezon City, and the corresponding Certificates of Sale of Delinquent Property issued to the local government of Quezon City are **VOID**.
4. The local government of Quezon City **may assess and collect** real property taxes only from those private parties, if any, to whom the Light Rail Transit Authority may have leased its real property for use by private parties for their private purpose.

SO ORDERED.

Carpio, S.A.J. (Chairperson), Caguioa, Reyes, J. Jr., and *Zalameda, JJ.,* concur.