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[G.R. No. 144104. June 29, 2004]

LUNG CENTER OF THE PHILIPPINES, *petitioner, vs.* **QUEZON CITY and CONSTANTINO P. ROSAS, in his capacity as City Assessor of Quezon City,** *respondents.*

SYNOPSIS

Petitioner is a non-stock and non-profit entity established by P.D. No. 1823, which owned a parcel of land where the hospital known as the Lung Center of the Philippines is erected. The petitioner accepts paying and non-paying patients. A part of the petitioner's lot was leased to private parties for commercial purposes and portions of the hospital were rented out to private medical practitioners for their private clinics. Both the land and the hospital building of the petitioner were assessed for real property taxes. Petitioner filed a claim for exemption from real property taxes with the City Assessor of Quezon City, predicated on its claim that it is a charitable institution, but the same was denied. The Local Board of Assessment Appeals of Quezon City denied petitioner's petition, holding it liable for real property taxes. This decision was affirmed on appeal by the Central Board of Assessment Appeals and subsequently by the Court of Appeals. Hence, this petition.

The Supreme Court ruled that petitioner is a charitable institution within the context of the 1973 and 1987 Constitutions. The test whether an enterprise is charitable or not is whether it exists to carry out a purpose reorganized in law as charitable or whether it is maintained for gain, profit, or private advantage. Under P.D. No. 1823, petitioner was organized for the welfare and benefit of the Filipino people principally to help combat the high incidence of lung and pulmonary diseases in the Philippines. Petitioner does not lose its character as a charitable institution by the fact that it derived income from paying patients because it was able to prove that it spent its income for its patients and for the operation of the hospital.

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However, the Court held that those portions of petitioner's real property that are leased to private entities as well as those parts of the hospital leased to private individuals are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes. 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.

SYLLABUS

1. CONSTITUTIONAL LAW; TAXATION; CHARITABLE INSTITUTIONS; TEST OF WHETHER AN ENTERPRISE IS CHARITABLE OR NOT.— To determine whether an enterprise is a charitable institution/entity or not, the elements which should be considered include the statute creating the enterprise, its corporate purposes, its constitution and by-laws, the methods of administration, the nature of the actual work performed, the character of the services rendered, the indefiniteness of the beneficiaries, and the use and occupation of the properties. In the legal sense, a charity may be fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds and hearts under the influence of education or religion, by assisting them to establish themselves in life or otherwise lessening the burden of government. It may be applied to almost anything that tend to promote the well-doing and well-being of social man. It embraces the improvement and promotion of the happiness of man. The word "charitable" is not restricted to relief of the poor or sick. The test of a charity and a charitable organization are in law the same. The test whether an enterprise is charitable or not is whether it exists to carry out a purpose reorganized in law as charitable or whether it is maintained for gain, profit, or private advantage.

2. ID.; ID.; ID.; A CHARITABLE INSTITUTION DOES NOT LOSE ITS CHARACTER AS SUCH AND ITS EXEMPTION FROM TAXES SIMPLY BECAUSE IT DERIVES INCOME FROM PAYING PATIENTS; CONDITION; CASE AT BAR.— As a general principle, a charitable institution does not lose its character as such and its exemption from taxes simply because it derives income from paying patients, whether out-patient, or confined in the hospital, or receives subsidies from the

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government, so long as the money received is devoted or used altogether to the charitable object which it is intended to achieve; and no money inures to the private benefit of the persons managing or operating the institution.

3. ID.; ID.; ID.; A CHARITABLE INSTITUTION DOES NOT LOSE ITS CHARACTER AS SUCH SIMPLY BECAUSE IT RECEIVES DONATIONS IN THE FORM OF SUBSIDIES GRANTED BY THE GOVERNMENT; CASE AT BAR.— Under P.D. No. 1823, the petitioner is entitled to receive donations. The petitioner does not lose its character as a charitable institution simply because the gift or donation is in the form of subsidies granted by the government.

4. TAXATION LAW; LAWS GRANTING TAX EXEMPTION ARE STRICTLY CONSTRUED AGAINST THE TAXPAYER AND LIBERALLY IN FAVOR OF THE TAXING POWER.— The settled rule in this jurisdiction is that laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. Taxation is the rule and exemption is the exception. The effect of an exemption is equivalent to an appropriation. Hence, a claim for exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken.

5. POLITICAL LAW; CONSTITUTIONAL LAW; CHARITABLE INSTITUTIONS; WHEN ENTITLED TO TAX EXEMPTION.— Under the 1973 and 1987 Constitutions and Rep. Act No. 7160 in order to be entitled to the exemption, the petitioner is burdened to prove, by clear and unequivocal proof, that (a) it is a charitable institution; and (b) its real properties are **ACTUALLY, DIRECTLY and EXCLUSIVELY** used for charitable purposes. "Exclusive" is defined as possessed and enjoyed to the exclusion of others; debarred from participation or enjoyment; and "exclusively" is defined, "in a manner to exclude; as enjoying a privilege exclusively." If real property is used for one or more commercial purposes, it is not exclusively used for the exempted purposes but is subject to taxation. The words "dominant use" or "principal use" cannot be substituted for the words "used exclusively" without doing violence to the Constitutions and the law. Solely is synonymous with exclusively. What is meant by actual, direct and exclusive use of the property for charitable purposes is the direct and immediate and actual application of the property

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itself to the purposes for which the charitable institution is organized. It is not the use of the income from the real property that is determinative of whether the property is used for tax-exempt purposes.

APPEARANCES OF COUNSEL

The Government Corporate Counsel for petitioner.

D E C I S I O N

CALLEJO, SR., *J.*:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended, of the Decision[1] dated July 17, 2000 of the Court of Appeals in CA-G.R. SP No. 57014 which affirmed the decision of the Central Board of Assessment Appeals holding that the lot owned by the petitioner and its hospital building constructed thereon are subject to assessment for purposes of real property tax.

The Antecedents

The petitioner Lung Center of the Philippines is a non-stock and non-profit entity established on January 16, 1981 by virtue of Presidential Decree No. 1823.[2] It is the registered owner of a parcel of land, particularly described as Lot No. RP-3-B-3A-1-B-1, SWO-04-000495, located at Quezon Avenue corner Elliptical Road, Central District, Quezon City. The lot has an area of 121,463 square meters and is covered by Transfer

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Fermin A. Martin, Jr. and Salvador J. Valdez, Jr. concurring.

[2] SECTION 1. — CREATION OF THE LUNG CENTER OF THE PHILIPPINES. There is hereby created a trust, under the name and style of Lung Center of the Philippines, which, subject to the provisions of this Decree, shall be administered, according to the Articles of Incorporation, By-Laws and Objectives of the Lung Center of the Philippines, Inc., duly registered (reg. No. 85886) with the Securities and Exchange Commission of the Republic of the Philippines, by the Office of the President, in coordination with the Ministry of Human Settlements and the Ministry of Health.

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Certificate of Title (TCT) No. 261320 of the Registry of Deeds of Quezon City. Erected in the middle of the aforesaid lot is a hospital known as the Lung Center of the Philippines. A big space at the ground floor is being leased to private parties, for canteen and small store spaces, and to medical or professional practitioners who use the same as their private clinics for their patients whom they charge for their professional services. Almost one-half of the entire area on the left side of the building along Quezon Avenue is vacant and idle, while a big portion on the right side, at the corner of Quezon Avenue and Elliptical Road, is being leased for commercial purposes to a private enterprise known as the Elliptical Orchids and Garden Center.

The petitioner accepts paying and non-paying patients. It also renders medical services to out-patients, both paying and non-paying. Aside from its income from paying patients, the petitioner receives annual subsidies from the government.

On June 7, 1993, both the land and the hospital building of the petitioner were assessed for real property taxes in the amount of ₱4,554,860 by the City Assessor of Quezon City.[3] Accordingly, Tax Declaration Nos. C-021-01226 (16-2518) and C-021-01231 (15-2518-A) were issued for the land and the hospital building, respectively.[4] On August 25, 1993, the petitioner filed a Claim for Exemption[5] from real property taxes with the City Assessor, predicated on its claim that it is a charitable institution. The petitioner's request was denied, and a petition was, thereafter, filed before the Local Board of Assessment Appeals of Quezon City (QC-LBAA, for brevity) for the reversal of the resolution of the City Assessor. The petitioner alleged that under Section 28, paragraph 3 of the 1987 Constitution, the property is exempt from real property taxes. It averred that a minimum of 60% of its hospital beds are exclusively used for charity patients and that the major thrust of its hospital operation is to serve charity patients. The petitioner contends that it is a charitable institution

[3] Annex "C", *Rollo*, p. 49.

[4] Annexes "2" & "2-A", *id.* at 93-94.

[5] Annex "D", *id.* at 50-52.

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and, as such, is exempt from real property taxes. The QC-LBAA rendered judgment dismissing the petition and holding the petitioner liable for real property taxes.[6]

The QC-LBAA's decision was, likewise, affirmed on appeal by the Central Board of Assessment Appeals of Quezon City (CBAA, for brevity)[7] which ruled that the petitioner was not a charitable institution and that its real properties were not actually, directly and exclusively used for charitable purposes; hence, it was not entitled to real property tax exemption under the constitution and the law. The petitioner sought relief from the Court of Appeals, which rendered judgment affirming the decision of the CBAA.[8]

Undaunted, the petitioner filed its petition in this Court contending that:

A. THE COURT *A QUO* ERRED IN DECLARING PETITIONER AS NOT ENTITLED TO REALTY TAX EXEMPTIONS ON THE GROUND THAT ITS LAND, BUILDING AND IMPROVEMENTS, SUBJECT OF ASSESSMENT, ARE NOT ACTUALLY, DIRECTLY AND EXCLUSIVELY DEVOTED FOR CHARITABLE PURPOSES.

B. WHILE PETITIONER IS NOT DECLARED AS REAL PROPERTY TAX EXEMPT UNDER ITS CHARTER, PD 1823, SAID EXEMPTION MAY NEVERTHELESS BE EXTENDED UPON PROPER APPLICATION.

The petitioner avers that it is a charitable institution within the context of Section 28(3), Article VI of the 1987 Constitution. It asserts that its character as a charitable institution is not altered by the fact that it admits paying patients and renders medical services to them, leases portions of the land to private parties, and rents out portions of the hospital to private medical practitioners from which it derives income to be used for operational expenses. The petitioner points out that for the years 1995 to 1999, 100%

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[6] Annex "E", *id*. at 53-55.

[7] Annexes "4" & "5", *id*. at 100-109.

[8] Annex "A", *id*. at 33-41.

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of its out-patients were charity patients and of the hospital's 282-bed capacity, 60% thereof, or 170 beds, is allotted to charity patients. It asserts that the fact that it receives subsidies from the government attests to its character as a charitable institution. It contends that the "exclusivity" required in the Constitution does not necessarily mean "solely." Hence, even if a portion of its real estate is leased out to private individuals from whom it derives income, it does not lose its character as a charitable institution, and its exemption from the payment of real estate taxes on its real property. The petitioner cited our ruling in *Herrera v. QC-BAA*[9] to bolster its pose. The petitioner further contends that even if P.D. No. 1823 does not exempt it from the payment of real estate taxes, it is not precluded from seeking tax exemption under the 1987 Constitution.

In their comment on the petition, the respondents aver that the petitioner is not a charitable entity. The petitioner's real property is not exempt from the payment of real estate taxes under P.D. No. 1823 and even under the 1987 Constitution because it failed to prove that it is a charitable institution and that the said property is actually, directly and exclusively used for charitable purposes. The respondents noted that in a newspaper report, it appears that graft charges were filed with the Sandiganbayan against the director of the petitioner, its administrative officer, and Zenaida Rivera, the proprietress of the Elliptical Orchids and Garden Center, for entering into a lease contract over 7,663.13 square meters of the property in 1990 for only ₱20,000 a month, when the monthly rental should be ₱357,000 a month as determined by the Commission on Audit; and that instead of complying with the directive of the COA for the cancellation of the contract for being grossly prejudicial to the government, the petitioner renewed the same on March 13, 1995 for a monthly rental of only ₱24,000. They assert that the petitioner uses the subsidies granted by the government for charity patients and uses the rest of its income from the property for the benefit of paying patients, among other purposes. They aver that the petitioner failed to adduce

[9] 3 SCRA 187 (1961).

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substantial evidence that 100% of its out-patients and 170 beds in the hospital are reserved for indigent patients. The respondents further assert, thus:

> 13. That the claims/allegations of the Petitioner LCP do not speak well of its record of service. That before a patient is admitted for treatment in the Center, first impression is that it is pay-patient and required to pay a certain amount as deposit. That even if a patient is living below the poverty line, he is charged with high hospital bills. And, without these bills being first settled, the poor patient cannot be allowed to leave the hospital or be discharged without first paying the hospital bills or issue a promissory note guaranteed and indorsed by an influential agency or person known only to the Center; that even the remains of deceased poor patients suffered the same fate. Moreover, before a patient is admitted for treatment as free or charity patient, one must undergo a series of interviews and must submit all the requirements needed by the Center, usually accompanied by endorsement by an influential agency or person known only to the Center. These facts were heard and admitted by the Petitioner LCP during the hearings before the Honorable QC-BAA and Honorable CBAA. These are the reasons of indigent patients, instead of seeking treatment with the Center, they prefer to be treated at the Quezon Institute. Can such practice by the Center be called charitable?[10]

The Issues

The issues for resolution are the following: (a) whether the petitioner is a charitable institution within the context of Presidential Decree No. 1823 and the 1973 and 1987 Constitutions and Section 234(b) of Republic Act No. 7160; and (b) whether the real properties of the petitioner are exempt from real property taxes.

The Court's Ruling

The petition is partially granted.

On the first issue, we hold that the petitioner is a charitable institution within the context of the 1973 and 1987 Constitutions. To determine whether an enterprise is a charitable institution/

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[10] *Rollo*, pp. 83-84.

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entity or not, the elements which should be considered include the statute creating the enterprise, its corporate purposes, its constitution and by-laws, the methods of administration, the nature of the actual work performed, the character of the services rendered, the indefiniteness of the beneficiaries, and the use and occupation of the properties.[11]

In the legal sense, a charity may be fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds and hearts under the influence of education or religion, by assisting them to establish themselves in life or otherwise lessening the burden of government.[12] It may be applied to almost anything that tend to promote the well-doing and well-being of social man. It embraces the improvement and promotion of the happiness of man.[13] The word "charitable" is not restricted to relief of the poor or sick.[14] The test of a charity and a charitable organization are in law the same. The test whether an enterprise is charitable or not is whether it exists to carry out a purpose reorganized in law as charitable or whether it is maintained for gain, profit, or private advantage.

Under P.D. No. 1823, the petitioner is a non-profit and non-stock corporation which, subject to the provisions of the decree, is to be administered by the Office of the President of the Philippines with the Ministry of Health and the Ministry of Human Settlements. It was organized for the welfare and benefit of the Filipino people principally to help combat the high incidence of lung and pulmonary diseases in the Philippines. The *raison*

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[11] See *Workmen's Circle Educational Center of Springfield v. Board of Assessors of City of Springfield*, 51 N.E.2d 313 (1943).

[12] *Congregational Sunday School & Publishing Society v. Board of Review*, 125 N.E. 7 (1919), citing *Jackson v. Philipps*, 14 Allen (Mass.) 539.

[13] *Bader Realty & Investment Co. v. St. Louis Housing Authority*, 217 S.W.2d 489 (1949).

[14] *Board of Assessors of Boston v. Garland School of Homemaking*, 6 N.E.2d 379.

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d'etre for the creation of the petitioner is stated in the decree, *viz*:

Whereas, for decades, respiratory diseases have been a priority concern, having been the leading cause of illness and death in the Philippines, comprising more than 45% of the total annual deaths from all causes, thus, exacting a tremendous toll on human resources, which ailments are likely to increase and degenerate into serious lung diseases on account of unabated pollution, industrialization and unchecked cigarette smoking in the country;

Whereas, the more common lung diseases are, to a great extent, preventable, and curable with early and adequate medical care, immunization and through prompt and intensive prevention and health education programs;

Whereas, there is an urgent need to consolidate and reinforce existing programs, strategies and efforts at preventing, treating and rehabilitating people affected by lung diseases, and to undertake research and training on the cure and prevention of lung diseases, through a Lung Center which will house and nurture the above and related activities and provide tertiary-level care for more difficult and problematical cases;

Whereas, to achieve this purpose, the Government intends to provide material and financial support towards the establishment and maintenance of a Lung Center for the welfare and benefit of the Filipino people.[15]

The purposes for which the petitioner was created are spelled out in its Articles of Incorporation, thus:

SECOND: That the purposes for which such corporation is formed are as follows:

1. To construct, establish, equip, maintain, administer and conduct an integrated medical institution which shall specialize in the treatment, care, rehabilitation and/or relief of lung and allied diseases in line with the concern of the government to assist and provide material and financial support in the establishment and maintenance of a lung center primarily to benefit the people of the Philippines and in pursuance of the policy of the State to secure the

[15] *Rollo*, pp. 119-120.

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well-being of the people by providing them specialized health and medical services and by minimizing the incidence of lung diseases in the country and elsewhere.

2. To promote the noble undertaking of scientific research related to the prevention of lung or pulmonary ailments and the care of lung patients, including the holding of a series of relevant congresses, conventions, seminars and conferences;

3. To stimulate and, whenever possible, underwrite scientific researches on the biological, demographic, social, economic, eugenic and physiological aspects of lung or pulmonary diseases and their control; and to collect and publish the findings of such research for public consumption;

4. To facilitate the dissemination of ideas and public acceptance of information on lung consciousness or awareness, and the development of fact-finding, information and reporting facilities for and in aid of the general purposes or objects aforesaid, especially in human lung requirements, general health and physical fitness, and other relevant or related fields;

5. To encourage the training of physicians, nurses, health officers, social workers and medical and technical personnel in the practical and scientific implementation of services to lung patients;

6. To assist universities and research institutions in their studies about lung diseases, to encourage advanced training in matters of the lung and related fields and to support educational programs of value to general health;

7. To encourage the formation of other organizations on the national, provincial and/or city and local levels; and to coordinate their various efforts and activities for the purpose of achieving a more effective programmatic approach on the common problems relative to the objectives enumerated herein;

8. To seek and obtain assistance in any form from both international and local foundations and organizations; and to administer grants and funds that may be given to the organization;

9. To extend, whenever possible and expedient, medical services to the public and, in general, to promote and protect the health of the masses of our people, which has long been recognized as an economic asset and a social blessing;

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10. To help prevent, relieve and alleviate the lung or pulmonary afflictions and maladies of the people in any and all walks of life, including those who are poor and needy, all without regard to or discrimination, because of race, creed, color or political belief of the persons helped; and to enable them to obtain treatment when such disorders occur;

11. To participate, as circumstances may warrant, in any activity designed and carried on to promote the general health of the community;

12. To acquire and/or borrow funds and to own all funds or equipment, educational materials and supplies by purchase, donation, or otherwise and to dispose of and distribute the same in such manner, and, on such basis as the Center shall, from time to time, deem proper and best, under the particular circumstances, to serve its general and non-profit purposes and objectives;

13. To buy, purchase, acquire, own, lease, hold, sell, exchange, transfer and dispose of properties, whether real or personal, for purposes herein mentioned; and

14. To do everything necessary, proper, advisable or convenient for the accomplishment of any of the powers herein set forth and to do every other act and thing incidental thereto or connected therewith.[16]

Hence, the medical services of the petitioner are to be rendered to the public in general in any and all walks of life including those who are poor and the needy without discrimination. After all, any person, the rich as well as the poor, may fall sick or be injured or wounded and become a subject of charity.[17]

As a general principle, a charitable institution does not lose its character as such and its exemption from taxes simply because it derives income from paying patients, whether out-patient, or confined in the hospital, or receives subsidies from the government, so long as the money received is devoted or used altogether to the charitable object which it is intended to achieve; and no

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[16] *Id.* at 123-125.

[17] *Scripps Memorial Hospital v. California Employment Commission*, 24 Cal.2d 669, 151 P.2d 109 (1944).

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money inures to the private benefit of the persons managing or operating the institution.[18] In *Congregational Sunday School, etc. v. Board of Review*,[19] the State Supreme Court of Illinois held, thus:

> . . . [A]n institution does not lose its charitable character, and consequent exemption from taxation, by reason of the fact that those recipients of its benefits who are able to pay are required to do so, where no profit is made by the institution and the amounts so received are applied in furthering its charitable purposes, and those benefits are refused to none on account of inability to pay therefor. The fundamental ground upon which all exemptions in favor of charitable institutions are based is the benefit conferred upon the public by them, and a consequent relief, to some extent, of the burden upon the state to care for and advance the interests of its citizens.[20]

As aptly stated by the State Supreme Court of South Dakota in *Lutheran Hospital Association of South Dakota v. Baker*: [21]

> . . . [T]he fact that paying patients are taken, the profits derived from attendance upon these patients being exclusively devoted to the maintenance of the charity, seems rather to enhance the usefulness of the institution to the poor; for it is a matter of common observation amongst those who have gone about at all amongst the suffering classes, that the deserving poor can with difficulty be persuaded to enter an asylum of any kind confined to the reception of objects of charity; and that their honest pride is much less wounded by being placed in an institution in which paying patients are also received. The fact of receiving money from some of the patients does not, we think, at all impair the character of the charity, so long as the money thus received is devoted altogether to the charitable object which the institution is intended to further.[22]

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[18] *Sisters of Third Order of St. Frances v. Board of Review of Peoria County*, 83 N.E. 272.

[19] See note 12.

[20] *Id*. at 10.

[21] 167 N.W. 148 (1918), citing *State v. Powers*, 10 Mo. App. 263, 74 Mo. 476.

[22] *Id*. at 149.

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The money received by the petitioner becomes a part of the trust fund and must be devoted to public trust purposes and cannot be diverted to private profit or benefit.[23]

Under P.D. No. 1823, the petitioner is entitled to receive donations. The petitioner does not lose its character as a charitable institution simply because the gift or donation is in the form of subsidies granted by the government. As held by the State Supreme Court of Utah in *Yorgason v. County Board of Equalization of Salt Lake County*:[24]

> Second, the . . . government subsidy payments are provided to the project. Thus, those payments are like a gift or donation of any other kind except they come from the government. In both *Intermountain Health Care* and the present case, the crux is the presence or absence of material reciprocity. It is entirely irrelevant to this analysis that the government, rather than a private benefactor, chose to make up the deficit resulting from the exchange between St. Mark's Tower and the tenants by making a contribution to the landlord, just as it would have been irrelevant in *Intermountain Health Care* if the patients' income supplements had come from private individuals rather than the government.
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> Therefore, the fact that subsidization of part of the cost of furnishing such housing is by the government rather than private charitable contributions does not dictate the denial of a charitable exemption if the facts otherwise support such an exemption, as they do here.[25]

In this case, the petitioner adduced substantial evidence that it spent its income, including the subsidies from the government for 1991 and 1992 for its patients and for the operation of the hospital. It even incurred a net loss in 1991 and 1992 from its operations.

Even as we find that the petitioner is a charitable institution, we hold, anent the second issue, that those portions of its real

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[23] See *O'brien v. Physicians' Hospital Association*, 116 N.E. 975 (1917).

[24] 714 P.2d 653 (1986).

[25] *Id.* at 660-661.

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property that are leased to private entities are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes.

The settled rule in this jurisdiction is that laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. Taxation is the rule and exemption is the exception. The effect of an exemption is equivalent to an appropriation. Hence, a claim for exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken.[26] As held in *Salvation Army v. Hoehn*:[27]

> An intention on the part of the legislature to grant an exemption from the taxing power of the state will never be implied from language which will admit of any other reasonable construction. Such an intention must be expressed in clear and unmistakable terms, or must appear by necessary implication from the language used, for it is a well settled principle that, when a special privilege or exemption is claimed under a statute, charter or act of incorporation, it is to be construed strictly against the property owner and in favor of the public. This principle applies with peculiar force to a claim of exemption from taxation. . . .[28]

Section 2 of Presidential Decree No. 1823, relied upon by the petitioner, specifically provides that the petitioner shall enjoy the tax exemptions and privileges:

> SEC. 2. TAX EXEMPTIONS AND PRIVILEGES. — Being a non-profit, non-stock corporation organized primarily to help combat the high incidence of lung and pulmonary diseases in the Philippines, all donations, contributions, endowments and equipment and supplies to be imported by authorized entities or persons and by the Board of Trustees of the Lung Center of the Philippines, Inc., for the actual use and benefit of the Lung Center, *shall be exempt from income and gift taxes, the same further deductible*

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[26] *Commissioner of Internal Revenue v. Court of Appeals*, 298 SCRA 83 (1998).

[27] 188 S.W.2d. 826 (1945).

[28] *Id.* at 829.

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in full for the purpose of determining the maximum deductible amount under Section 30, paragraph (h), of the National Internal Revenue Code, as amended.

The Lung Center of the Philippines *shall be exempt from the payment of taxes, charges and fees imposed by the Government or any political subdivision or instrumentality thereof with respect to equipment purchases made by, or for the Lung Center*.[29]

It is plain as day that under the decree, *the petitioner does not enjoy any property tax exemption privileges for its real properties as well as the building constructed thereon*. If the intentions were otherwise, the same should have been among the enumeration of tax exempt privileges under Section 2:

It is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others. The rule is expressed in the familiar maxim, *expressio unius est exclusio alterius*.

The rule of *expressio unius est exclusio alterius* is formulated in a number of ways. One variation of the rule is the principle that what is expressed puts an end to that which is implied. *Expressium facit cessare tacitum*. Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.

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The rule of *expressio unius est exclusio alterius* and its variations are canons of restrictive interpretation. They are based on the rules of logic and the natural workings of the human mind. They are predicated upon one's own voluntary act and not upon that of others. They proceed from the premise that the legislature would not have made specified enumeration in a statute had the intention been not to restrict its meaning and confine its terms to those expressly mentioned.[30]

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[29] *Rollo*, p. 120. (Italics supplied.)

[30] *Malinias v. COMELEC*, 390 SCRA 480 (2002).

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The exemption must not be so enlarged by construction since the reasonable presumption is that the State has granted in express terms all it intended to grant at all, and that unless the privilege is limited to the very terms of the statute the favor would be intended beyond what was meant.[31]

Section 28(3), Article VI of the 1987 Philippine Constitution provides, thus:

(3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, *actually*, *directly* and *exclusively* used for religious, charitable or educational purposes shall be exempt from taxation.[32]

The tax exemption under this constitutional provision covers *property* taxes only.[33] As Chief Justice Hilario G. Davide, Jr., then a member of the 1986 Constitutional Commission, explained: ". . . what is exempted is not the institution itself . . .; those exempted from real estate taxes are lands, buildings and improvements actually, directly and exclusively used for religious, charitable or educational purposes."[34]

Consequently, the constitutional provision is implemented by Section 234(b) of Republic Act No. 7160 (otherwise known as the Local Government Code of 1991) as follows:

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

... ...

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries

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[31] *St. Louis Young Men's Christian Association v. Gehner*, 47 S.W.2d 776 (1932).

[32] Italics supplied.

[33] *Commissioner of Internal Revenue v. Court of Appeals, supra*.

[34] *Ibid.* Citing II RECORDS OF THE CONSTITUTIONAL COMMISSION 90.

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and all lands, buildings, and improvements *actually*, *directly*, and *exclusively* used for religious, charitable or educational purposes.[35]

We note that under the 1935 Constitution, ". . . all lands, buildings, and improvements used 'exclusively' for … charitable . . . purposes shall be exempt from taxation."[36] However, under the 1973 and the present Constitutions, for "lands, buildings, and improvements" of the charitable institution to be considered exempt, the same should not only be "exclusively" used for charitable purposes; it is required that such property be used "actually" and "directly" for such purposes.[37]

In light of the foregoing substantial changes in the Constitution, the petitioner cannot rely on our ruling in *Herrera v. Quezon City Board of Assessment Appeals* which was promulgated on September 30, 1961 before the 1973 and 1987 Constitutions took effect.[38] As this Court held in *Province of Abra v. Hernando*:[39]

> . . . Under the 1935 Constitution: "Cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation." The present Constitution added "charitable institutions, mosques, and non-profit cemeteries" and required that for the exemption of "lands, buildings, and improvements," they should not only be "exclusively" but also "actually" and "directly" used for religious or charitable purposes.

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[35] Italics supplied.

[36] Article VI, Section 22, par. (3) of the 1935 Constitution provides that, "Cemeteries, churches and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation."

[37] Article VIII, Section 17, par. (3) of the 1973 Constitution provides that, "Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, and non-profit cemeteries, and all lands, buildings, and improvements actually, directly, and exclusively used for religious or charitable purposes shall be exempt from taxation."

[38] 3 SCRA 186 (1961).

[39] 107 SCRA 105 (1981).

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The Constitution is worded differently. The change should not be ignored. It must be duly taken into consideration. Reliance on past decisions would have sufficed were the words "actually" as well as "directly" not added. There must be proof therefore of the *actual* and *direct* use of the lands, buildings, and improvements for religious or charitable purposes to be exempt from taxation . . .

Under the 1973 and 1987 Constitutions and Rep. Act No. 7160 in order to be entitled to the exemption, the petitioner is burdened to prove, by clear and unequivocal proof, that (a) it is a charitable institution; and (b) its real properties are **ACTUALLY**, **DIRECTLY** and **EXCLUSIVELY** used for charitable purposes. "Exclusive" is defined as possessed and enjoyed to the exclusion of others; debarred from participation or enjoyment; and "exclusively" is defined, "in a manner to exclude; as enjoying a privilege exclusively."[40] If real property is used for one or more commercial purposes, it is not exclusively used for the exempted purposes but is subject to taxation.[41] The words "dominant use" or "principal use" cannot be substituted for the words "used exclusively" without doing violence to the Constitutions and the law.[42] Solely is synonymous with exclusively.[43]

What is meant by actual, direct and exclusive use of the property for charitable purposes is the direct and immediate and actual application of the property itself to the purposes for which the charitable institution is organized. It is not the use of the income from the real property that is determinative of whether the property is used for tax-exempt purposes.[44]

The petitioner failed to discharge its burden to prove that the entirety of its real property is actually, directly and exclusively

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[40] *Young Men's Christian Association of Omaha v. Douglas County*, 83 N.W. 924 (1900).

[41] *St. Louis Young Men's Christian Association v. Gehner, supra*.

[42] See *State ex rel Koeln v. St. Louis Y.M.C.A.*, 168 S.W. 589 (1914).

[43] *Lodge v. Nashville*, 154 S.W. 141.

[44] *Christian Business College v. Kalamanzoo*, 131 N.W. 553.

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used for charitable purposes. While portions of the hospital are used for the treatment of patients and the dispensation of medical services to them, whether paying or non-paying, other portions thereof are being leased to private individuals for their clinics and a canteen. Further, a portion of the land is being leased to a private individual for her business enterprise under the business name "Elliptical Orchids and Garden Center." Indeed, the petitioner's evidence shows that it collected ₱1,136,483.45 as rentals in 1991 and ₱1,679,999.28 for 1992 from the said lessees.

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 are not exempt from such taxes.[45] 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.

IN LIGHT OF ALL THE FOREGOING, *the petition is PARTIALLY GRANTED*. The respondent Quezon City Assessor is hereby *DIRECTED* to determine, after due hearing, the precise portions of the land and the area thereof which are leased to private persons, and to compute the real property taxes due thereon as provided for by law.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Corona, Carpio Morales, Azcuna, and *Tinga, JJ .,* concur.

Vitug, J., on official leave.

Ynares-Santiago and *Austria-Martinez, JJ.,* on leave.

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[45] See *Young Men's Christian Association of Omaha v. Douglas County, supra; Martin v. City of New Orleans,* 58 Am. 194 (1886).