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THIRD DIVISION

[G.R. No. 72477. October 16, 1990]

NATIONAL POWER CORPORATION, *petitioner, vs.* **HON. PRESIDING JUDGE, REGIONAL TRIAL COURT, 10TH JUDICIAL REGION, BRANCH XXV, CAGAYAN DE ORO CITY, PROVINCE OF MISAMIS ORIENTAL, MUNICIPALITY OF JASAAN, MISAMIS ORIENTAL AND BARANGAY APLAYA, JASAAN, MISAMIS ORIENTAL,** *respondents.*

SYLLABUS

1. **STATUTORY CONSTRUCTION; INTERPRETATION OF STATUTES; BETWEEN A GENERAL LAW AND A SPECIAL LAW, THE SPECIAL LAW PREVAILS.** — P.D. 242 is a general law which deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. The coverage is broad and sweeping, encompassing all disputes, claims and controversies. P.D. 464 on the other hand, governs the appraisal and assessment of real property for purposes of taxation by provinces, cities and municipalities, as well as the levy, collection and administration of real property tax. It is a special law which deals specifically with real property taxes. It is a basic tenet in statutory construction that between a general law and a special law, the special law prevails. *GENERALIA SPECIALIBUS NON DEROGANT.*

2. **ID.; ID.; WHERE A LATTER SPECIAL LAW ON A PARTICULAR SUBJECT IS REPUGNANT TO, OR INCONSISTENT WITH, A PRIOR GENERAL LAW ON THE SAME SUBJECT, A PARTIAL REPEAL OF THE LATTER WILL BE IMPLIED TO THE EXTENT OF THE REPUGNANCY OR AN EXCEPTION GRAFTED UPON THE GENERAL LAW.** — Where a later special law on a particular subject is repugnant to, or inconsistent with, a prior general law on the same subject, a partial repeal of the latter will be implied to the extent of the repugnancy or an

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exception grafted upon the general law. A special law must be intended to constitute an exception to the general law in the absence of special circumstances forcing a contrary conclusion.

3. **TAXATION; REAL PROPERTY TAXES AND SPECIAL EDUCATION FUND TAXES; SHOULD BE PAID BY THE NATIONAL POWER CORPORATION IN CASE AT BAR.** — Presidential Decree No. 1177, entitled "REVISING THE BUDGET PROCESS IN ORDER TO INSTITUTIONALIZE THE BUDGETARY INNOVATIONS OF THE NEW SOCIETY" was passed on July 30, 1977. Section 23 thereof provides: Section 23. Tax and Duty Exemptions. — *All units of government, including government-owned or controlled corporations, shall pay income taxes, customs duties and other taxes and fees as are imposed under revenue laws*; provided, that organizations otherwise exempted by law from the payment of such taxes/ duties may ask for a subsidy from the General Fund in the exact amount of taxes/duties due; provided, further, that a procedure shall be established by the Secretary of Finance and the Commissioner of the Budget, whereby such subsidies shall automatically be considered as both revenue and expenditure of the General Fund. Petitioner alleges that what has been withdrawn is its exemption from taxes, duties, and fees which are payable to the national government while its exemption from taxes, duties and fees payable to government branches, agencies and instrumentalities remains unaffected. Considering that real property taxes are payable to the local government, NAPOCOR maintains that it is exempt therefrom. We find the above argument untenable. It reads into the law a distinction that is not there. It is contrary to the clear intent of the law to withdraw from all units of government, including government-owned or controlled corporations their exemptions from all kinds of taxes. Had it been otherwise, then the law would have said so. Not having distinguished as to the kinds of tax exemptions withdrawn, the plain meaning is that all tax exemptions are covered. Where the law does not distinguish, neither must we. Moreover, Presidential Decree No. 1931 entitled "DIRECTING THE RATIONALIZATION OF DUTY AND TAX EXEMPTION PRIVILEGES GRANTED TO GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND ALL OTHER UNITS OF GOVERNMENT" which was passed on June 11, 1984, categorically states: "WHEREAS, *Presidential Decree No. 1177*

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> *has already expressly repealed the grant of tax privileges to any government-owned or controlled corporation* and all other units of government." Thus, any dubiety on NAPOCOR'S liability to pay taxes, duties and fees should be considered unequivocably resolved by the above provision. x x x The proceeds of the real property tax are divided among the province, city or municipality where the property subject to the tax is situated and shall be applied by the respective local government unit for its own use and benefit. Even the barrio where the property is situated shares in the real property tax collections. Likewise, the entire proceeds of the additional one per cent (1%) real property tax levied for the Special Education Fund created under R.A. 5447, are divided among the province, city and municipalities where the property is situated.

APPEARANCES OF COUNSEL

Pantaleon Z. Salcedo for respondent Barangay Aplaya.
The Provincial Attorney for respondent Misamis Oriental and Municipality of Jasaan.

DECISION

FERNAN, *C.J.*:

In this Special Civil Action for *Certiorari*, petitioner National Power Corporation (NAPOCOR for brevity) questions the jurisdiction of the Regional Trial Court of Cagayan de Oro City, Branch XXV to hear Civil Case No. 9901 filed by respondents Province of Misamis Oriental and Municipality of Jasaan for the collection of real property tax and special education fund tax from petitioner covering the years 1978 to 1984.

The antecedent facts are as follows:

On October 10, 1984, the Province of Misamis Oriental filed a complaint[1] with the Regional Trial Court of Cagayan de Oro City, Branch XXV against NAPOCOR for the collection of

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[1] *Rollo*, pp. 18-21.

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real property tax and special education fund tax in the amounts of ₱11,105,008.10 and ₱11,104,658.10, respectively, covering the period 1978 to 1984. Petitioner NAPOCOR then defendant therein, filed a motion to dismiss[2] dated January 12, 1985 on the grounds that the court has no jurisdiction over the action or suit and that it is not the proper forum for the adjudication of the case. In support of this motion NAPOCOR cited Presidential Decree No. 242 dated July 9, 1973 which provides that disputes between agencies of the government including government-owned or controlled corporations shall be administratively settled or adjudicated by the Secretary of Justice.

The court through Judge Pablito C. Pielago issued an order[3] dated January 28, 1985 denying the motion to dismiss. NAPOCOR filed a supplemental motion to dismiss[4] on February 22, 1985 citing a resolution of the Fiscal Incentive Review Board, No. 10-85 effective January 11, 1984, restoring the tax and duty exemption privileges of petitioner.

On March 27, 1985, NAPOCOR filed its answer to the complaint with counterclaim. Treating the same as a second motion to dismiss and finding the affirmative defenses therein stated to be unmeritorious, the court *a quo* issued an order on June 27, 1985, denying the second motion to dismiss and requiring both parties to appear before the court for the purpose of submitting a stipulation of facts.

On July 23, 1985, Barangay Aplaya, Municipality of Jasaan, Misamis Oriental filed a complaint in intervention[5] contending that non-payment by NAPOCOR of real property taxes would adversely affect its interest since under the law, ten percent (10%) of the real property tax collected on properties within its jurisdiction shall accrue to the general fund of the *barangay*.

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[2] *Rollo*, pp. 22-24.

[3] *Rollo*, pp. 25-26; 28-30.

[4] *Rollo*, pp. 31-33.

[5] *Rollo*, pp. 65-66.

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Thereafter, the case was set for trial pursuant to the court's order dated August 20, 1985.[6]

On October 30, 1985, petitioner NAPOCOR filed before this Court the present special civil action for *certiorari*,[7] setting forth the following issues, to wit:

"1) Respondent Court acted without or in excess of jurisdiction and with grave abuse of discretion when it issued the orders dated January 28, 1985, June 27, 1985 and August 20, 1985, denying petitioner's motions to have Civil Case No. 9901 dismissed on the grounds of lack of jurisdiction and/or improper venue.

"2) Petitioner is exempt from payment of real property taxes."

Relied upon by NAPOCOR in assailing the jurisdiction of the lower court and/or the venue of the action are Sections 2 and 3 of Presidential Decree No. 242, entitled "PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES" dated on July 9, 1973. Sections 2 and 3 of this Decree provide:

Section 2. *In all cases involving only questions of law, the same shall be submitted to and settled or adjudicated by the Secretary of Justice, as Attorney General and ex officio legal adviser of all government-owned or controlled corporations and entities, in consonance with Section 83 of the Revised Administrative Code.* His ruling or determination of the question in each case shall be conclusive and binding upon all the parties concerned.

Section 3. Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:

(a) The Solicitor General, with respect to disputes or claims or controversies between or among the departments, bureaus, offices and other agencies of the National Government;

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[6] *Rollo*, pp. 72-73.

[7] *Rollo*, pp. 2-16.

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(b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the office of the Government Corporate Counsel; and

(c) *The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (a) and (b).* (Italics supplied)

In upholding the lower court's jurisdiction, respondent municipal corporations, on the other hand, rely on Presidential Decree No. 464, entitled "THE REAL PROPERTY TAX CODE" enacted on July 1, 1974, specifically Section 82 thereof which provides:

Section 82. Collection of real property tax through the courts. — *The delinquent real property tax shall constitute a lawful indebtedness of the taxpayer to the province or city and collection of the tax may be enforced by civil action in any court of competent jurisdiction.* The civil action shall be filed by the Provincial or City Fiscal within fifteen days after receipt of the statement of delinquency certified to by the provincial or city treasurer. This remedy shall be in addition to all other remedies provided by law.

It is indeed desirable and beneficial to the Judiciary's on-going program of decongesting court dockets that intra-governmental disputes such as this be settled administratively. Unfortunately, our consideration of the legal provisions involved leads us to a different conclusion. In reconciling these two conflicting provisions of P.D. 242 and P.D. 464 on the matter of jurisdiction, we are guided by the basic rules on statutory construction.

An examination of these two decrees shows that P.D. 242 is a general law which deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. The coverage is broad and sweeping, encompassing all disputes, claims and controversies.

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P.D. 464 on the other hand, governs the appraisal and assessment of real property for purposes of taxation by provinces, cities and municipalities, as well as the levy, collection and administration of real property tax. It is a special law which deals specifically with real property taxes.

It is a basic tenet in statutory construction that between a general law and a special law, the special law prevails. *GENERALIA SPECIALIBUS NON DEROGANT.*[8]

Where a later special law on a particular subject is repugnant to, or inconsistent with, a prior general law on the same subject, a partial repeal of the latter will be implied to the extent of the repugnancy or an exception grafted upon the general law.

A special law must be intended to constitute an exception to the general law in the absence of special circumstances forcing a contrary conclusion.[9]

The conflict in the provisions on jurisdiction between P.D. 242 and P.D. 464 should be resolved in favor of the latter law, since it is a special law and of later enactment. P.D. 242 must yield to P.D. 464 on the matter of who or which tribunal or agency has jurisdiction over the enforcement and collection of real property taxes. Therefore, respondent court has jurisdiction to hear and decide Civil Case No. 9901.

On the question of whether or not NAPOCOR is liable to pay real property taxes and special education fund taxes for the years 1978 to 1984, we rule in the affirmative.

Presidential Decree No. 1177, entitled "REVISING THE BUDGET PROCESS IN ORDER TO INSTITUTIONALIZE THE BUDGETARY INNOVATIONS OF THE NEW SOCIETY" was passed on July 30, 1977. Section 23 thereof provides:

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[8] *Lagman vs. City of Manila*, G.R. No. 23305, June 30, 1966, 17 SCRA 579.

[9] *Baga vs. PNB*, 99 Phil. 889, cited in *Butuan Sawmill, Inc. vs. City of Butuan, et al.*, No. L-21516, April 29, 1966, 16 SCRA 755.

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Section 23. Tax and Duty Exemptions. — *All units of government, including government-owned or controlled corporations, shall pay income taxes, customs duties and other taxes and fees as are imposed under revenue laws*; provided, that organizations otherwise exempted by law from the payment of such taxes/duties may ask for a subsidy from the General Fund in the exact amount of taxes/duties due; provided, further, that a procedure shall be established by the Secretary of Finance and the Commissioner of the Budget, whereby such subsidies shall automatically be considered as both revenue and expenditure of the General Fund. (Italics supplied)

Petitioner alleges that what has been withdrawn is its exemption from taxes, duties, and fees which are payable to the national government while its exemption from taxes, duties and fees payable to government branches, agencies and instrumentalities remains unaffected. Considering that real property taxes are payable to the local government, NAPOCOR maintains that it is exempt therefrom.

We find the above argument untenable. It reads into the law a distinction that is not there. It is contrary to the clear intent of the law to withdraw from all units of government, including government-owned or controlled corporations their exemptions from all kinds of taxes. Had it been otherwise, then the law would have said so. Not having distinguished as to the kinds of tax exemptions withdrawn, the plain meaning is that all tax exemptions are covered. Where the law does not distinguish, neither must we.

Moreover, Presidential Decree No. 1931 entitled "DIRECTING THE RATIONALIZATION OF DUTY AND TAX EXEMPTION PRIVILEGES GRANTED TO GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND ALL OTHER UNITS OF GOVERNMENT" which was passed on June 11, 1984, categorically states:

"WHEREAS, *Presidential Decree No. 1177 has already expressly repealed the grant of tax privileges to any government-owned or controlled corporation* and all other units of government." (Italics supplied)

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Thus, any dubiety on NAPOCOR'S liability to pay taxes, duties and fees should be considered unequivocably resolved by the above provision.

In the case of *National Power Corporation vs. The Province of Albay, et al.*,[10] herein petitioner was held liable for real property taxes to the provincial government of Albay for the period June 11, 1984 to March 10, 1987, when it claims to have been enjoying tax exemptions under Resolutions Nos. 10-85, 1-86 and 17-87 of the Fiscal Incentives Review Board (FIRB). It must be noted that Resolution 10-85 was the same resolution cited by petitioner in its supplemental motion to dismiss[11] in Civil Case No. 9901. If the attempt (found ineffective for lack of authority in the above-cited case of *NPC vs. The Province of Albay*) to restore petitioner's tax exemptions began only in 1985 with the issuance of FIRB Resolution No. 10-85, it stands to reason that prior thereto, *i.e.*, from 1977 when P.D. 1177 was promulgated up to 1984, petitioner did not enjoy any tax privilege as would exempt it from the payment of the taxes under consideration.

In the same case of *NPC vs. The Province of Albay*,[12] this Court had occasion to state:

"Actually, the State has no reason to decry the taxation of NAPOCOR's properties, as and by way of real property taxes. Real property taxes, after all, form part and parcel of the financing apparatus of the Government in development and nation-building, particularly in the local government level.

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"To all intents and purposes, real property taxes are funds taken by the State with one hand and given to the other. In no measure can the Government be said to have lost anything."

The proceeds of the real property tax are divided among the province, city or municipality where the property subject to the

[10] G.R. No. 87479, June 4, 1990.

[11] *Rollo*, pp. 31-33.

[12] *Ibid.*

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tax is situated and shall be applied by the respective local government unit for its own use and benefit. Even the barrio where the property is situated shares in the real property tax collections. Likewise, the entire proceeds of the additional one per cent (1%) real property tax levied for the Special Education Fund created under R.A. 5447, are divided among the province, city and municipalities where the property is situated.

WHEREFORE, the petition is DISMISSED. Petitioner having been found liable for the taxes being collected in Civil Case No. 9901, the respondent court is hereby directed to proceed with deliberate dispatch in hearing the case for the purpose of determining the exact liability of petitioner. No costs.

SO ORDERED.

Gutierrez, Jr., Bidin, and *Cortés, JJ.*, concur.

Feliciano, J., on leave.

THIRD DIVISION

[G.R. No. 75112. October 16, 1990]

FILAMER CHRISTIAN INSTITUTE, *petitioner, vs.* **HONORABLE COURT OF APPEALS, HONORABLE ENRIQUE P. SUPLICO, in his capacity as Judge of the Regional Trial Court, Branch XIV, Roxas City and the late POTENCIANO KAPUNAN, SR., as substituted by his heirs, namely: LEONA KAPUNAN TIANGCO, CICERO KAPUNAN, JESUS KAPUNAN, SANTIAGO KAPUNAN, POTENCIANO KAPUNAN, JR., PAZ KAPUNAN PUBLICO, SUSA KAPUNAN GENUINO, and ERLINDA KAPUNAN TESORO,** *respondents.*