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[G.R. No. 237663. October 6, 2020]

REPUBLIC OF THE PHILIPPINES, *Petitioner*, *v.* **HEIRS OF MA. TERESITA A. BERNABE and COOPERATIVE RURAL BANK OF BULACAN,** *Respondents*.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992 (REPUBLIC ACT No. 7227); THE BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA) IS NOT A CORPORATION, EITHER AS A STOCK OR NONSTOCK CORPORATION, BUT A GOVERNMENT INSTRUMENTALITY WITH CORPORATE POWERS (GICP) OR GOVERNMENT CORPORATE ENTITY (GCE), VESTED OR ENDOWED WITH THE POWERS OF A CORPORATION, INCLUDING THE POWER TO SUE AND BE SUED IN ITS CORPORATE NAME AND THE RIGHT TO OWN, HOLD AND ADMINISTER THE LANDS THAT HAVE BEEN TRANSFERRED TO IT, WITH OPERATIONAL AUTONOMY, AND PART OF THE NATIONAL GOVERNMENT MACHINERY ALTHOUGH NOT INTEGRATED WITHIN THE DEPARTMENTAL FRAMEWORK.— [W]hile Section 3 of R.A. 7227 recognizes the BCDA as a body corporate with the attribute of perpetual succession and vested with the powers of a corporation and Section 5 of R.A. 7227 vests the BCDA with the power, among others, to succeed in its corporate name, to sue and be sued in such corporate name and to adopt, alter and use a corporate seal which can be judicially noticed, these provisions do not make the BCDA a corporation, either a stock or nonstock corporation as defined under the Corporation Code as well as the Revised Corporation Code — they merely endow the BCDA with all or full corporate powers so that it can enjoy operational autonomy. And, since its capitalization provision, Section 6 of R.A. 7227, cannot qualify the BCDA as a stock or nonstock corporation, then it is an *Instrumentality* under Section 2(10)

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of the Introductory Provisions of the Administrative Code as well as *Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE)* under Section 3(n) of R.A. 10149. Given the ruling of the Court in *BCDA v. CIR* and the express classification of the BCDA as a Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE) under Section 3(n) of R.A. 10149, the Court recognizes the BCDA as a GICP or GCE vested or endowed with the powers of a corporation, including the power to sue and be sued in its corporate name and the right to own, hold and administer the lands that have been transferred to it, with operational autonomy, and part of the National Government machinery although not integrated within the departmental framework.

2. ID.; ID.; ID.; ID.; THE BCDA IS A MERE TRUSTEE OF THE REPUBLIC; THE TRANSFER OF THE MILITARY RESERVATIONS AND OTHER PROPERTIES, *I.E.*, CLARK AIR BASE PROPER AND PORTIONS OF THE CLARK REVERTED BASE LANDS, (CAB LANDS) FROM THE CLARK SPECIAL ECONOMIC ZONE (CSEZ) TO THE BCDA WAS NOT MEANT TO TRANSFER THE BENEFICIAL OWNERSHIP OF THESE ASSETS FROM THE REPUBLIC TO THE BCDA, BUT MERELY TO ESTABLISH THE BCDA AS THE GOVERNING BODY OF THE CSEZ.— Since the BCDA is a GICP or GCE, what is the nature of its interest in the CAB Lands that were transferred to it by virtue of Proc. No. 163 "to own, hold and/or administer under Section 4(a) of R.A. 7227? x x x. In *Government Service Insurance System v. City Treasurer of the City of Manila*, the Court, applying the doctrine in *Manila International Airport Authority*, held that the Government Service Insurance System (GSIS), similar to MIAA, is an instrumentality of the National Government whose properties are owned by the Republic, *viz.*: x x x [T]he subject properties under GSIS's name are likewise owned by the Republic. The GSIS is but a **mere trustee** of the subject properties which have either been ceded to it by the Government or acquired for the enhancement of the system. This particular property arrangement is clearly shown by the fact that the **disposal or conveyance of said subject properties are either done by or through the authority of the President** x x x. In consonance with the aforequoted pronouncements of the Court, the Court holds, in the words of *Manila International*

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Airport Authority, that the BCDA is a mere trustee of the Republic. The transfer of the military reservations and other properties — the CAB Lands — from the CSEZ to the BCDA was not meant to transfer the beneficial ownership of these assets from the Republic to the BCDA. The purpose was merely to establish the BCDA as the governing body of the CSEZ.

3. ID.; ID.; ID.; ID.; THE REPUBLIC, BEING THE BENEFICIAL OWNER OF THE MILITARY RESERVATIONS AND THEIR EXTENSIONS, INCLUDING THE CAB LANDS AND CAMP WALLACE, IS THE REAL PARTY IN INTEREST AND NOT THE BCDA, IN ALL CASES INVOLVING THE TITLE TO AND OWNERSHIP THEREOF; THE BCDA CANNOT DISPOSE OF THE CAB LANDS; HENCE, ITS EXECUTIVE HEAD CANNOT SIGN THE DEED OF CONVEYANCE ON BEHALF OF THE REPUBLIC; ONLY THE PRESIDENT OF THE REPUBLIC IS AUTHORIZED TO SIGN SUCH DEED OF CONVEYANCE.— Given that the BCDA itself is owned solely by the Republic and that R.A. 7227, the law creating the BCDA, provides that "[w]ith respect to the military reservations and their extensions, the President upon recommendation of the [BCDA] x x x shall likewise be authorized to sell or dispose those portions of lands which the [BCDA] x x x may find essential for the development of [its] projects," then it is the Republic that has retained the beneficial ownership of the CAB Lands pursuant to Article 428 of the Civil Code, which provides that only the owner has the right to dispose of a thing. Since the BCDA cannot dispose of the CAB Lands, the BCDA does not own the military reservations and their extensions, including the CAB Lands, that were transferred to it. The BCDA's status as a mere trustee of the CAB Lands is made obvious by the fact that under the law creating it, its executive head cannot even sign the deed of conveyance on behalf of the Republic and only the President of the Republic is authorized to sign such deed of conveyance, which is a recognition that the property being disposed of belongs to the Republic pursuant to Section 48, Chapter 12, Book I of the Administrative Code x x x. Being the beneficial owner of the CAB Lands, the Republic is the real party in interest in this case. With these pronouncements, the Court now abandons its ruling in *Shipside Incorporated* that the Republic is not the real party in interest in cases involving the title to and ownership

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of the military reservations and their extensions, including the CAB Lands and Camp Wallace, transferred to the BCDA. Henceforth, in cases involving the title to and ownership of the military reservations and their extensions, including the CAB Lands and Camp Wallace, transferred to the BCDA, the Republic, being the beneficial owner, is the real party in interest and not the BCDA.

4. ID.; ID.; ID.; ID.; THE AUTHORITY TO INSTITUTE AN ACTION FOR REVERSION TO THE GOVERNMENT OF LANDS OF PUBLIC DOMAIN, ON BEHALF OF THE REPUBLIC, IS PRIMARILY CONFERRED UPON THE OFFICE OF THE SOLICITOR GENERAL.— The Court clarifies that the BCDA has limited ownership right and disposing power. This is recognized as one of the powers of the BCDA under Section 5(h) of R.A. 7227: "To acquire, own, hold, administer, and lease real and personal properties, including agricultural lands, property rights and interests and encumber, lease, mortgage, sell, alienate or otherwise dispose of the same at fair market value it may deem appropriate." Clearly, the cause of action as pleaded in the Second Amended Complaint is one for reversion with cancellation of title. This is evident from the denomination of the case as one: "For: Cancellation of Title and Reversion" and the x x x allegations and prayer of the Second Amended Complaint x x x. Being one for reversion, the action should indeed be instituted by the OSG on behalf of the Republic pursuant to Section 101 of Commonwealth Act No. 141, as amended, or the *Public Land Act*, which provides: "All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor-General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines." The Court interpreted this provision in *Republic v. Mangotara* in this wise*:* Clear from the aforequoted provision that the authority to institute an action for reversion, on behalf of the Republic, is primarily conferred upon the OSG. While the OSG, for most of the time, will file an action for reversion upon the request or recommendation of the Director of Lands, there is no basis for saying that the former is absolutely bound or dependent on the latter. It must be recalled that the authority of the Director of Lands is limited to those disposable lands of public domain which have been proclaimed to be subject to disposition under the *Public Land Act* or Commonwealth Act

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No. 141. In the present case, the CAB Lands have been transferred to the BCDA as the trustee thereof and, thus, the Director of Lands can no longer be deemed the administrator of the CAB Lands on the assumption that they have already been proclaimed as disposable lands of public domain.

5. ID.; ID.; ID.; ID.; THE BCDA, BEING THE TRUSTEE OF THE CAB LANDS, THROUGH ITS AUTHORIZED SIGNATORY, CAN EXECUTE THE VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING; REQUIREMENTS ON THE VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING, SUBSTANTIALLY COMPLIED WITH; RELAXATION OF THE RULE, PROPER DUE TO SPECIAL CIRCUMSTANCES AND JURISPRUDENTIAL SIGNIFICANCE OF THE CASE AT BAR AND IN THE INTEREST OF JUSTICE.— [T]he CA found the VCAFS attached to the Second Amended Complaint defective x x x. Since the basis for the CA and the RTC in ruling that the VCAFS executed by the BCDA's President and CEO is their reliance on *Shipside Incorporated*, which the Court now finds to be not in accord with R.A. 7227, the Administrative Code and R.A. 10149, as well as prevailing jurisprudence, the BCDA, being the trustee of the CAB Lands, through its authorized signatory, can execute the VCAFS. The authority of the BCDA's President and CEO to sign the VCAFS is also being questioned on the alleged lack of the resolution of the Board of the BCDA designating him as the authorized signatory. x x x. In *Shipside Incorporated*, the defect in the VCAFS, consisting of the failure to show proof that Lorenzo Balbin, the resident manager for petitioner therein, who was the signatory in the VCAFS, was authorized by petitioner's board of directors to file such a petition, was brushed aside: In certain exceptional circumstances, however, the Court has allowed the belated filing of the certification. x x x In all these cases, there were special circumstances or compelling reasons that justified the relaxation of the rule requiring verification and certification on non-forum shopping. x x x. A perusal of the Secretary's Certificate dated February 6, 2018 attached to the Petition shows that on the occasion of the 504th Regular Board Meeting of the BCDA Board held on November 22, 2017, Resolution No. 2017-11-184 was approved, authorizing the OSG to file the cancellation of titles and/or reversion cases against claimants of properties that form

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part of the Fort Stotsenburg Military Reservation in Angeles City, Pampanga, and the President and CEO, or the Executive Vice President, or the General Counsel of the BCDA, is authorized to verify, certify and execute a certificate against non-forum shopping. The Court notes that the Secretary's Certificate has been belatedly filed and could not under ordinary circumstances cure the defect of the VCAFS attached to the Second Amended Complaint. However, given the special circumstances and jurisprudential significance of the present case, the Court deems it proper in the interest of justice to relax the rule with respect to the requirements on the VCAFS and that there was substantial compliance by the Republic with the said requirements.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Campanilla Ponce Law Firm for Heirs of Ma. Teresita A. Bernabe.

PDIC Office of the General Counsel for Cooperative Rural Bank of Bulacan.

D E C I S I O N

CAGUIOA, *J.*:

Before the Court is a petition for review[1] (Petition) under Rule 45 of the Rules of Court filed by petitioner Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG), assailing the Decision[2] dated February 21, 2018 of the Court of Appeals[3] (CA) in CA-G.R. CV No. 104631. The CA Decision denied the Republic's appeal and

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[1] *Rollo*, pp. 10-32, excluding Annexes.

[2] Id. at 34-50. Penned by Associate Justice Carmelita Salandanan Manahan, with Associate Justices Romeo F. Barza and Stephen C. Cruz, concurring.

[3] First (1st) Division.

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affirmed the Resolution[4] dated May 13, 2014 rendered by the Regional Trial Court, Branch 59, Angeles City (RTC), in Civil Case No. 11682. The RTC Resolution granted the Motion to Dismiss filed by respondent Cooperative Rural Bank of Bulacan (CRBB) and dismissed the Republic's Second Amended Complaint.

The Facts and Antecedent Proceedings

The CA Decision narrates the facts of the case as follows:

> On August 23, 2004, a Complaint for Cancellation of Title and Reversion was filed by [the Republic] through the [OSG] against [respondent] Ma. Teresita E. Bernabe [(Bernabe)].
>
> The Complaint alleges that on July 31, 1908, [the] then Governor General of the Philippines, James F. Smith, issued an unnumbered proclamation reserving certain parcels of land in the province of Pampanga for military purposes.
>
> While said parcels of land remained as United States Military Reservation, a portion thereof was surveyed, segregated and designated as "Lot No. 727, Psd-5278, Angeles Cadastre." Said Lot No. [7]27 was assigned in favor of one Jose Henson, who later subdivided the same into seven (7) sublots, namely: Lot No. 727-A, Lot No. 727-B, Lot No. 727-C, Lot No. 727-D, Lot No. 727-E, Lot No. 727-F and Lot No. 727-G. One of the sublots, Lot No. 727-G, was further subdivided into sixty-three (63) portions as evinced by Survey Plan Csd-11198.
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> The sublots covered by Survey Plan Csd-11198 are portions of the Fort Stotsenburg Military Reservation, which is currently known as Clark Air Force Base. Said military reservation was never released as alienable and disposable land of the public domain, hence, they are neither susceptible to disposition under the provisions of Commonwealth Act No. 141, the Public Land Act, nor registrable under Act No. 496, the Land Registration Act.
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> As evidenced by a subdivision survey covering Lot No. 965, Psd-5278, formerly Lot No. 42 of Csd-11198, one Francisco Garcia [(Garcia)] caused the registration of the same under the Torrens System

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[4] *Rollo*, pp. 82-95. Penned by Presiding Judge Ma. Angelica T. Paras-Quiambao.

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of Registration; by virtue of the said registration, Garcia was then issued an Original Certificate of Title No. 83 on August 16, 1968. On March 8, 1968, Garcia sold a portion of the said Lot No. 965 to Nicanor Romero for which Transfer Certificate of Title No. 21685 was issued. The said portion [(subject property)] was then further sold to Bernabe for which Transfer Certificate of Title No. 107736 was issued.

During the fact-finding investigation and relocation survey conducted by the Bureau of Lands to determine the location of the subject property in relation to the perimeter area of Clark Air Force Base, it was discovered that the subject property was neither occupied nor cultivated by the claimants thereof. The subject property was found inside Fort Stotsenburg Military Reservation which was being used as a target range by Clark Air Force Military personnel.

As no markers or monuments were found on the subject property, the subdivision survey made on the said property must be deemed as inaccurate. Garcia's acquisition of the subject property was tainted with fraud and misrepresentation, hence, the Decision of the Court of First Instance in Cadastral Case No. 1, LRC Record No. 124 which adjudicated the subject property in favor of Garcia and decreed the consequent issuance of Original Certificate [of Title] No. 83 must be declared as null and void; since the Original Certificate of Title No. 83 issued to Garcia is null and void, the Transfer Certificate of Title No. 107736 registered under the name of Bernabe is without valid and binding effect.

On January 23, 2006, while this case was pending, [respondents] Heirs of Bernabe mortgaged the subject property covered by Transfer Certificate of Title No. 107736 to [CRBB]. After being informed of the mortgage, the Republic, through the OSG, filed on December 5, 2011, an Amended Complaint impleading CRBB as defendant. Atty. Arnel Paciano D. Casanova [(Atty. Casanova)], the President and Chief Executive Officer of the Bases Conversion and Development Authority (BCDA), signed the Amended Complaint's Verification and Certification Against Forum Shopping.

On March 5, 2012, the OSG filed a Second Amended Complaint indicating the place of business of x x x CRBB as Cagayan Valley Road, Banga 1st Plaridel, Bulacan.

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Instead of submitting a responsive pleading, CRBB filed a Motion to Dismiss arguing that the Republic never renounced its ownership over the Clark Air Force Base, hence, the proper party to initiate a case for reversion is the Director of Lands. The instant complaint for cancellation of title and reversion, not being initiated by the Director of Lands, should be dismissed. Assuming that BCDA is the proper party, the complaint is still procedurally defective since it is not appended with a valid verification and certification against forum shopping. There is no showing that Atty. Casanova, in signing the x x x Verification and Certification Against Forum Shopping, was indeed authorized by the BCDA Board to sign said documents; and, if indeed the BCDA is the real party in interest, it cannot raise the defense of imprescriptibility, it being engaged in proprietary function. Finally, it contended that CRBB and the Heirs of Bernabe entered into their loan and mortgage transactions in good faith relying on what appeared on the title of the subject property, therefore, they must be protected.

For its part, the OSG filed its Opposition contending that: the Republic is the real party in interest, being the owner of all lands of the public domain under the concept of *jura regalia*. Atty. Casanova need not be authorized by the BCDA Board because he signed the x x x Verification and Certification Against Forum Shopping, not for BCDA, but for the Republic. Atty. Casanova had sufficient knowledge and belief to swear to the truth of the allegations in the Second Amended Complaint. The defense of prescription is unavailing because said defense does not run against the State and its subdivisions; and, to grant x x x CRBB's Motion to Dismiss on account of some procedural infirmity would be tantamount to a denial of due process against the State.

Meanwhile, a Notice was sent by CRBB informing the [RTC] that it was placed under receivership by the Bangko Sentral ng Pilipinas (BSP) on May 24, 2013. It likewise stated that the Philippine Deposit Insurance Commission (PDIC) is in the process of liquidating CRBB x x x.

On July 24, 2013, an Entry of Appearance with Motion to Suspend Proceedings was filed by the Office of the General Counsel (OGC), [as counsel for] PDIC on behalf of CRBB upon discovery of the latter's insolvency and its placement under receivership. The [RTC], in its July 26, 2013 Order, noted the said entry of appearance and ordered the temporary suspension of the proceedings for a period of three (3) months.

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On January 8, 2014, CRBB, through PDIC, filed a Reply with Additional Ground for the Motion to Dismiss contending that the instant case is dismissible because the same must be adjudicated under the exclusive jurisdiction of the Liquidation Court.

On February 21, 2014, the OSG filed a Rejoinder averring that liquidation proceedings filed in another court does not divest the [RTC] of its jurisdiction to take cognizance of the reversion proceedings. Citing the settled precept in procedural law that jurisdiction, once acquired, continues until the case is finally terminated, it postulated that the [RTC], which first acquired jurisdiction over the instant case, shall retain the same until the case is terminated.

On May 13, 2014, the [RTC] rendered [a] Resolution, granting CRBB's Motion to Dismiss[, the dispositive portion of which states:

> **WHEREFORE**, premises considered, the prayer in the "Motion to Dismiss" dated December 19, 2012 filed by [CRBB] is hereby **GRANTED**.
>
> The Second Amended Complaint filed by the [Republic] is hereby ordered **DISMISSED** without prejudice to the filing of an appropriate action by the [BCDA] to which a valid verification and certification against forum shopping must be attached.
>
> Furnish the parties' respective counsels with copies hereof.][5]

Aggrieved, the Republic, through the OSG, filed a Motion for Reconsideration to which CRBB, as represented by PDIC, interposed its Opposition. On September 17, 2014, the OSG filed its Comment thereon. On December 15, 2014, the [RTC] rendered a Resolution denying said motion for reconsideration.

[The Republic, then, filed an appeal to the CA.][6]

Ruling of the CA

In its Decision dated February 21, 2018, the CA denied the Republic's appeal. The CA agreed with the RTC that the Republic is not the real party in interest because, from the allegations of

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[5] Id. at 95.

[6] Id. at 34-41.

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the Republic's Second Amended Complaint, the subject property being located inside the Fort Stotsenburg Military Reservation, which is presently known as Clark Air Base, is under the direct control and ownership of the BCDA pursuant to Proclamation[7] No. 163, series of 1993.[8] Thus, according to the CA, the BCDA, by virtue of its ownership over the subject property, is the party which stands to be benefited or injured by the verdict in the instant case, and, being the real party in interest, the instant case for reversion and cancellation of title must be lodged in its name as the plaintiff.[9] The CA applied the Court's ruling in the 2001 case of *Shipside Incorporated v. Court of Appeals*[10] *(Shipside Incorporated)* that the Republic lacks standing to initiate reversion proceedings covering properties transferred to the BCDA.[11]

The CA further stated that assuming the Republic is the real party in interest, the Second Amended Complaint is dismissible due to the defects in the Verification and Certification Against Forum Shopping (VCAFS) attached thereto because it is beyond the official functions of the BCDA, much less, its President and Chief Executive Officer (CEO), to sign the VCAFS.[12] Assuming that the BCDA was competent to act on behalf of the Republic, Atty. Casanova's signature on the VCAFS may not be deemed valid because of the lack of any evidence showing that he was particularly authorized by the BCDA Board of Directors (Board) to sign the same.[13]

The dispositive portion of the CA Decision states:

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[7] The CA Decision inadvertently mentioned "Presidential Decree (P.D.) No. 163, series of 1993." Id. at 43.

[8] *Rollo*, pp. 42-43.

[9] Id. at 43.

[10] G.R. No. 143377, February 20, 2001, 352 SCRA 334 [Per J. Melo, Third Division].

[11] *Rollo*, pp. 43-46.

[12] Id. at 48-49.

[13] Id. at 49.

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WHEREFORE, premises considered, the appeal is hereby **DENIED**. The Resolution dated May 13, 2014 of the Regional Trial Court, Branch 59, Angeles City in Civil Case No. 11682 is hereby **AFFIRMED**.

SO ORDERED.[14]

Hence, the instant Petition, without first seeking reconsideration of the CA Decision. Respondents Heirs of Ma. Teresita A. Bernabe (Heirs of Bernabe) filed a Comment[15] dated November 20, 2018. CRBB, represented by its liquidator PDIC, filed a Comment[16] dated December 10, 2018. Both Comments did not question the non-filing by the Republic of a motion to reconsider the CA Decision and merely reiterated the ruling and disquisitions of the lower courts. The Republic filed a Consolidated Reply[17] dated September 9, 2019.

The Issues

The Petition states only two issues to be resolved:

1. Whether the CA erred in affirming the ruling of the RTC that the Republic is not the real party in interest and cannot invoke imprescriptibility of action.

2. Whether the CA erred in affirming the Resolution of the RTC dismissing the Second Amended Complaint for reversion and cancellation of title on the ground that the BCDA President cannot sign the VCAFS.[18]

The Court's Ruling

The Petition is impressed with merit.

The resolution of the instant Petition rests mainly on the determination of whether the Republic is the real party in interest

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[14] Id.

[15] Id. at 104-115.

[16] Id. at 122-142.

[17] Id. at 157-165.

[18] Id. at 17.

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to institute and prosecute the instant case for reversion and cancellation of title.

As defined in Section 2, Rule 3 of the Rules of Court, a real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Section 2 adds that unless otherwise authorized by law or the Rules of Court, every action must be prosecuted or defended in the name of the real party in interest.

To determine who is the real party in interest, the nature or character of the subject property and who has present ownership thereof have to be inquired into.

As alleged by the Republic in its Second Amended Complaint, on July 31, 1908, the then Governor General of the Philippines, James F. Smith, through an unnumbered Proclamation, issued an Executive Order wherein "[certain] lands [were] reserved for the extension of the Camp Stotsenburg military reservation near Angeles, Pampanga x x x as declared by Executive Order of September 1, 1903 (G.O. No. 34, War Department, October 13, 1903) x x x viz.: [a]ll public lands x x x."[19] The September 1, 1903 Executive Order "reserved for military purposes subject to private rights x x x [certain] tract of public land near Angeles, Pampanga."[20] Similar to the initial reservation, the reservation for the extension of Camp Stotsenburg was subject to private rights since the reservation was subject to the condition that "no private property shall be taken or destroyed without first making payment therefor x x x."[21]

Under that unnumbered Proclamation of the then Governor General of the Philippines, James F. Smith, the lands which were reserved for Camp Stotsenburg and its extension were all public lands subject to private rights. Later, Camp Stotsenburg became Clark Air Base. As alleged in the Second Amended Complaint, during the fact-finding investigation and relocation

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[19] Id. at 73-76. Quoted portion at 74.

[20] Id. at 73.

[21] Id. at 76.

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survey conducted by the Bureau of Lands, it was ascertained that the subject property was inside the Fort Stotsenburg Military Reservation (now Clark Air Base), which was being used as a target range by the Clark Air Force Military personnel, that it was never occupied nor cultivated by the claimants thereof, and that there were no monuments or markers existing thereon.[22]

In 1993, then President Fidel V. Ramos, through Proclamation No. 163,[23] series of 1993 (Proc. 163), created the Clark Special Economic Zone (CSEZ), which "shall cover the lands consisting of the Clark military reservations, including the Clark Air Base[24] proper and portions of the Clark reverted baselands [(CAB Lands)], and excluding the areas covered by previous Presidential Proclamations, the areas turned over to the Department of Agrarian Reform (DAR), and the areas in the reverted baselands reserved for military use."[25] The total area of the CSEZ or CAB Lands is 28,041 hectares, more or less, subject to actual survey, covering Clark Air Base proper and portions of the Clark reverted baselands.[26]

Proc. 163 also provides:

SECTION 2. *Transfer of CSEZ Areas to the Bases Conversion and Development Authority*. — The Clark Air Base proper covering 4,440 hectares, more or less, and portions of the Clark reverted baselands covering 23,601 hectares, more or less, totalling 28,041 hectares declared as the total area of the CSEZ in accordance with Section 1 hereof are hereby transferred to the BCDA.

These areas are approximate and subject to actual ground surveys.

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[22] Id. at 78.

[23] CREATING AND DESIGNATING THE AREA COVERED BY THE CLARK SPECIAL ECONOMIC ZONE AND TRANSFERRING THESE LANDS TO THE BASES CONVERSION AND DEVELOPMENT AUTHORITY PURSUANT TO REPUBLIC ACT NO. 7227, April 3, 1993.

[24] Clark Air Base is the term used in this Decision and not "Clark Air Force Base" which the lower courts have repeatedly used because "Clark Air Base" is the term adverted to in Proc. 163.

[25] Proclamation No. 163, series of 1993, Sec. 1.

[26] Id.

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The BCDA shall determine utilization and disposition of the above mentioned lands.

SECTION 3. *Governing Body of the Clark Special Economic Zone*. — Pursuant to Section 15 of R.A. 7227, the BCDA is hereby established as the governing body of the CSEZ. The BCDA shall promulgate all necessary policies, rules and regulations to govern and regulate the CSEZ thru the operating and implementing arm it shall establish for the CSEZ.

It will be recalled that Republic Act No. (R.A.) 7227[27] or the *Bases Conversion and Development Act of 1992* created the Bases Conversion and Development Authority (BCDA), "a body corporate x x x which shall have the attribute of perpetual succession and shall be vested with the powers of a corporation."[28] One of the BCDA's purposes is: "To own, hold and/or administer the military reservations of John Hay Air Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station, Mt. Sta. Rita Station (Hermosa, Bataan) and those portions of Metro Manila military camps which may be transferred to it by the President."[29] Being a corporate entity, the BCDA is vested with the power, among others: "To succeed in its corporate name, to sue and be sued in such corporate name and to adopt, alter and use a corporate seal which shall be judicially noticed."[30] Section 9 of R.A. 7227 provides: "The powers and functions of the Conversion Authority shall be exercised by a Board of Directors to be composed of nine (9) members x x x."

There is a specific provision in R.A. 7227 for the transfer of properties to the BCDA, *viz.*:

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[27] AN ACT ACCELERATING THE CONVERSION OF MILITARY RESERVATIONS INTO OTHER PRODUCTIVE USES, CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THE PURPOSE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES, March 13, 1992.

[28] R.A. 7227, Sec. 3.

[29] Id., Sec. 4 (a).

[30] Id., Sec. 5 (a).

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SECTION 7. *Transfer of Properties*. — Pursuant to paragraph (a), Section 4 hereof, the President shall transfer forthwith to the Conversion Authority:

(a) *Station*	*Area in has. (more or less)*
John Hay Air Station	570
Wallace Air Station	167
O'Donnell Transmitter Station	1,755
San Miguel Naval Communications Station	1,100
Mt. Sta. Rita Station (Hermosa, Bataan)	

(b) Such other properties including, but not limited to, portions of Metro Manila military camps, pursuant to Section 8 of this Act: *Provided, however*, That the areas which shall remain as military reservations shall be delineated and proclaimed as such by the President.

R.A. 7227 expressly provides that the BCDA is to own, hold and/or administer the military reservations and other properties transferred to it.

Given that, under Proc. 163, the CAB Lands were expressly transferred to the BCDA and the BCDA is empowered to determine their utilization and disposition, and that under R.A. 7227, BCDA is to own, hold and/or administer the properties transferred to it, it would seem that the Republic might have divested its right of dominion over properties that had been transferred to the BCDA and it would seem that BCDA would be the real party in interest in this case rather than the Republic.

This was the very ruling of the Court in the 2001 case of *Shipside Incorporated*. In that case, the OSG, representing the Republic, filed a complaint for revival of judgment and cancellation of titles which had been issued over parcels of land located inside Camp Wallace. Shipside Incorporated filed a Motion to Dismiss based on the ground, among others, that the Republic was not the real party in interest because the real property covered by the Torrens titles sought to be cancelled, allegedly part of Camp Wallace (Wallace Air Station), were under the ownership and administration of the BCDA under

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R.A. 7227. The Court upheld Shipside Incorporated's argument and declared:

> With the transfer of Camp Wallace to the BCDA, the government no longer has a right or interest to protect. Consequently, the Republic is not a real party in interest and it may not institute the instant action. Nor may it raise the defense of imprescriptibility, the same being applicable only in cases where the government is a party in interest. Under Section 2 of Rule 3 of the 1997 Rules of Civil Procedure, "every action must be prosecuted or defended in the name of the real party in interest." To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced (*Pioneer Insurance v. CA*, 175 SCRA 668 [1989]). A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. And by real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest (*Ibonilla v. Province of Cebu*, 210 SCRA 526 [1992]). Being the owner of the areas covered by Camp Wallace, it is the Bases Conversion and Development Authority, not the Government, which stands to be benefited if the land covered by TCT No. T-5710 issued in the name of petitioner is cancelled.
>
> x x x x x x x x x
>
> We, however, must not lose sight of the fact that the BCDA is an entity invested with a personality separate and distinct from the government [pursuant to] Section 3 of [R.A.] 7227 x x x.
>
> x x x x x x x x x
>
> It may not be amiss to state at this point that the functions of government have been classified into governmental or constituent and proprietary or ministrant. While public benefit and public welfare, particularly, the promotion of the economic and social development of Central Luzon, may be attributable to the operation of the BCDA, yet it is certain that the functions performed by the BCDA are basically proprietary in nature. The promotion of economic and social development of Central Luzon, in particular, and the country's goal for enhancement, in general, do not make the BCDA equivalent to the Government. Other corporations have been created by government to act as its agents for the realization of its programs, the SSS, GSIS, NAWASA and the NIA, to count a few, and yet, the Court has ruled

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that these entities, although performing functions aimed at promoting public interest and public welfare, are not government-function corporations invested with governmental attributes. It may thus be said that the BCDA is not a mere agency of the Government but a corporate body performing proprietary functions.

x x x x x x x x x

Having the capacity to sue or be sued [under Section 5 of R.A. 7227], it should thus be the BCDA which may file an action to cancel petitioner's title, not the Republic, the former being the real party in interest. One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action (*Ralla v. Ralla*, 199 SCRA 495 [1991]). A suit may be dismissed if the plaintiff or the defendant is not a real party in interest. If the suit is not brought in the name of the real party in interest, a motion to dismiss may be filed, as was done by petitioner in this case, on the ground that the complaint states no cause of action (*Tanpingco v. IAC*, 207 SCRA 652 [1992]).

x x x x x x x x x

Moreover, to recognize the Government as a proper party to sue in this case would set a bad precedent as it would allow the Republic to prosecute, on behalf of government-owned or controlled corporations, causes of action which have already prescribed, on the pretext that the Government is the real party in interest against whom prescription does not run, said corporations having been created merely as agents for the realization of government programs.[31]

The dismissal of the complaint filed by the Republic in *Shipside Incorporated* was, however, "without prejudice to the filing of an appropriate action by the Bases Development and Conversion Authority."[32]

Despite the transfer of the CAB Lands to the BCDA and the ruling of the Court in *Shipside Incorporated* that the BCDA is a corporate body performing proprietary functions with a personality separate and distinct from the government, the

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[31] *Shipside Incorporated v. Court of Appeals*, supra note 10, at 348-352.

[32] *Id.* at 353.

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Republic has taken the view that with the passage of R.A. 10149[33] or the *GOCC Governance Act of 2011*, the BCDA is now considered "a mere government instrumentality, albeit possessed with corporate powers" pursuant to its Section 3 (n),[34] which provides:

> SECTION 3. *Definition of Terms*. —
>
> x x x x x x x x x
>
> (n) *Government Instrumentalities with Corporate Powers (GICP)/ Government Corporate Entities (GCE*) refer to instrumentalities or agencies of the government, which are neither corporations nor agencies integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter including, but not limited to, the following: the Manila International Airport Authority (MIAA), the Philippine Ports Authority (PPA), the Philippine Deposit Insurance Corporation (PDIC), the Metropolitan Waterworks and Sewerage System (MWSS), the Laguna Lake Development Authority (LLDA), the Philippine Fisheries Development Authority (PFDA), the Bases Conversion and Development Authority (BCDA), the Cebu Port Authority (CPA), the Cagayan de Oro Port Authority, the San Fernando Port Authority, the Local Water Utilities Administration (LWUA) and the Asian Productivity Organization (APO). (Underscoring supplied)

The Republic argues that while Section 3 of R.A. 7227 vested the BCDA with the powers of a corporation, the said Section was superseded by Section 3 (n) of R.A. 10149 and *Shipside Incorporated* can no longer be invoked as precedent since it merely applied Section 3 of R.A. 7227.[35]

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

[34] *Rollo*, p. 20.

[35] Id. at 21.

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Both the RTC and the CA rejected the Republic's stance. The CA adopted *in toto* the RTC's disquisition, which is reproduced below:

"The reliance on [R.A. 10149] is misleading, taking into consideration the following disquisition:

First. [R.A. 10149] which was promulgated in 2011, did not specifically revoke the BCDA's autonomy. x x x

The thrust of the law was to create an oversight body called Governance Commission for Government-Owned and Controlled Corporations (GCG) over all government-owned or controlled corporations (GOCC). This body will implement the declaration of policy to actively exercise the State's ownership rights in [GOCCs] and to promote growth by ensuring that operations are consistent with national development policies and programs. This [Commission] is empowered to evaluate and determine if a certain GOCC should be reorganized, merged, streamlined, etc. It recommends actions to the President, such as abolition or privatization, but it does not, nor is it authorized to summarily abolish GOCCs. Clearly, the law does not divest [the] BCDA of its autonomous corporate powers but only seeks to ensure its compliance and viability in accordance with the State policy.

Second. The cited provision by the [Republic], Section 3 (n) of [R.A. 10149] was merely one [among] the [enumeration] in the Definition of Terms covered by the said law. It is basic that a law must be read in its entirety and piecemeal citations and interpretations are not favored. And the reading of the entire [R.A. 10149] shows that there is no alteration whatsoever regarding the corporate powers of [a] GOCC. [The] BCDA thus remains a distinct and separate corporate body vested with powers of a corporation from the State. Being a separate body, [the] BCDA has no business signing the [VCAFS of the complaint] filed by the Republic.

Third. [Combing] through [R.A. 10149's] declaration of policies, not one of its seven sub-provisions specifically state that [the] BCDA's autonomy has been revoked. x x x

The repealing clause in [R.A. 10149] did not do away with [the] BCDA's autonomy. Rules on statutory construction again remind that express repeals are favored over implied ones. Considering that nowhere in [R.A. 10149] is there any allusion to the diminishment

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of [the] BCDA or any other Government [I]nstrumentality with Corporate Powers (GICP) for that matter. Accordingly, its autonomy stands [notwithstanding] the repealing clause in [R.A. 10149].

Fourth. Hiding in plain sight is a contradiction to the [Republic's] claims. Section 3(n) of [R.A. 10149] itself [provides: 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 x x x].

Even if the court were to stretch the construction of the statute, it has no provision elastic enough to cover matters pertaining to the complete subordination of these entities under the new oversight entity. It even acknowledges the operational autonomy of bodies such as [the] BCDA. x x x"[36]

Unfortunately, the ruling in *Shipside Incorporated* that "the BCDA is not a mere agency of the Government but a corporate body performing proprietary functions"[37] is no longer in accord with the later rulings of the Court.

Manila International Airport Authority v. Court of Appeals[38] *(Manila International Airport Authority)*, which was decided by the Court *en banc* in 2006, has become the precedent in determining whether a government entity or agency is an "Instrumentality" or agency of the National Government or a "Government-Owned or -Controlled Corporation" (GOCC) pursuant to their definitions under the Administrative Code of 1987[39] (Administrative Code).

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[36] Id. at 46-48.

[37] *Shipside Incorporated v. Court of Appeals*, supra note 10, at 350.

[38] G.R. No. 155650, July 20, 2006, 495 SCRA 591 [Per J. Carpio, En Banc].

[39] Took effect one year after its publication in the Official Gazette on July 25, 1987.

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In *Manila International Airport Authority*, the issue was whether the approximately 600 hectares of land, including runways and buildings (Airport Lands and Buildings) then under the Bureau of Air Transportation, which the Manila International Airport Authority (MIAA) Charter transferred to MIAA, are exempt from real estate tax assessments under existing laws. In ruling that MIAA's Airport Lands and Buildings are exempt from real estate tax imposed by local governments, the Court had to first determine whether MIAA is a GOCC or an instrumentality of the National Government. On this matter, the Court ruled:

1. MIAA is Not a Government-Owned or Controlled Corporation

Respondents argue that MIAA, being a [GOCC] is not exempt from real estate tax. x x x

There is no dispute that a [GOCC] is not exempt from real estate tax. However, MIAA is **not** a [GOCC]. Section 2(13) of the Introductory Provisions of the Administrative Code of 1987 defines a [GOCC] as follows:

> SEC. 2. *General Terms Defined*. — x x x x
>
> (13) *Government-owned or controlled corporation* refers to any agency **organized as a stock or non-stock corporation**, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock: x x x. (Emphasis supplied)

A [GOCC] must be "**organized as a stock or non-stock corporation**." MIAA is not organized as a stock or non-stock corporation. MIAA is not a stock corporation because it has **no capital stock divided into shares**. MIAA has no stockholders or voting shares. 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:

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(a) The value of fixed assets including airport facilities, runways and equipment and such other properties, movable and immovable[,] which may be contributed by the National Government or transferred by it from any of its agencies x x x;

(b) That the amount of P605 million as of December 31, 1986 representing about seventy *per centum* (70%) of the unremitted share of the National Government from 1983 to 1986 to be remitted to the National Treasury as provided for in Section 11 of E.O. No. 903 as amended, shall be converted into the equity of the National Government in the Authority. Thereafter, the Government contribution to the capital of the Authority shall be provided in the General Appropriations Act.

Clearly under its Charter, MIAA does not have capital stock that is divided into shares.

Section 3 of the Corporation Code defines a stock corporation as one whose "*capital stock is divided into shares and x x x authorized to distribute to the holders of such shares dividends x x x.*" MIAA has capital but it is not divided into shares of stock. MIAA has no stockholders or voting shares. Hence, MIAA is not a stock corporation.

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

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

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Since MIAA is neither a stock nor non-stock corporation, MIAA does not qualify as a [GOCC]. What then is the legal status of MIAA within the National Government?

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

> SEC. 2. *General Terms Defined*. — x x x 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 (Emphasis supplied)

When the law vests in a government instrumentality corporate powers. The instrumentality does not become a corporation. Unless the government instrumentality is organized as a stock or non-stock corporation, it remains a government instrumentality exercising not only governmental but also corporate powers. Thus, MIAA exercises the governmental powers of eminent domain, police authority and the levying of fees and charges. At the same time, MIAA exercises "all the powers of a corporation under the Corporation Law, insofar as these powers are not inconsistent with the provisions of this Executive Order."

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. The MIAA Charter expressly states that transforming MIAA into a "separate and autonomous body" will make its operation more "financially viable."

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 [GOCC]. Examples are the Mactan International Airport Authority, the Philippine Ports Authority, the University of the Philippines and *Bangko Sentral ng Pilipinas*. All these government instrumentalities

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exercise corporate powers but they are not organized as stock or non-stock corporations as required by Section 2(13) of the Introductory Provisions of the Administrative Code. These government instrumentalities are sometimes loosely called government corporate entities. However, they are not [GOCCs] in the strict sense as understood under the Administrative Code, which is the governing law defining the legal relationship and status of government entities.

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

> SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units*. — **Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following**:
>
> x x x x
>
> (o) **Taxes, fees or charges of any kind on the National Government, its agencies and *instrumentalities*** and local government units. (Emphasis and italics supplied)[40] (Italics in the original; additional emphasis and underscoring supplied)

Applying the same parameters that the Court *en banc* used in *Manila International Airport Authority* to determine whether a government agency is an instrumentality or a GOCC, the Court thereafter ruled in the 2018 case of *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*[41] *(BCDA v. CIR)* that the BCDA is a government instrumentality vested with corporate powers and not a GOCC. That case

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[40] *Manila International Airport Authority v. Court of Appeals*, supra note 38, at 615-619.

[41] G.R. No. 205925, June 20, 2018, 867 SCRA 179 [Per J. Reyes, Jr., Second Division]. The Court relied upon the rulings in *Manila International Airport Authority* that many government authorities 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 GOCC and in *Philippine Fisheries Development Authority v. Court of Appeals*, G.R. No. 169836, July 31, 2007, 528 SCRA 706 that a government instrumentality retains its classification as such albeit having been endowed with some if not all corporate powers. (Id. at 187-188.)

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concerned the exemption of the BCDA from the payment of legal fees incident to the filing of pleadings or other applications with the courts.

Similar to *Manila International Airport Authority*, the Court in *BCDA v. CIR* used as its basis Section 2 (10) and (13) of the Introductory Provisions of the Administrative Code, which defines respectively *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," and *Government-owned or controlled corporation* as "any agency organized as a stock or nonstock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock."[42]

The Court noted in *BCDA v. CIR* that while the BCDA has authorized capital stock of ₱100 Billion, pursuant to Section 6 of R.A. 7227, the same is not divided into shares of stock. The BCDA has no voting shares and there is no provision in R.A. 7227 which authorizes the distribution of dividends and allotments of surplus and profits to the BCDA stockholders. The Court, noting Section 3[43] of the Corporation Code which defined a stock corporation as one whose capital stock is divided

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[42] Id. at 186-187.

[43] REVISED CORPORATION CODE OF THE PHILIPPINES, R.A. 11232 provides:

SEC. 3. *Classes of Corporations*. — Corporations formed or organized under this Code may be stock or nonstock corporations. Stock corporations are those which have capital stock divided into shares and are authorized to distribute to the holders of such shares, dividends, or allotments of the surplus profits on the basis of shares held. All other corporations are nonstock corporations.

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into shares and authorized to distribute to the holders of such shares dividends, ruled that the BCDA is not a stock corporation.

The Court likewise ruled that the BCDA is not a nonstock corporation because it is not organized for any of the purposes stated in Section 88[44] of the Corporation Code: "charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof," and recognized that, according to Section 4 of R.A. 7227, the BCDA is "organized for a specific purpose — to own, hold and/or administer the military reservations in the country and implement its conversion to other productive uses."[45]

In *BCDA v. CIR*, the Court, as it did in *Manila International Airport Authority*, basically applied the Administrative Code, which is the governing law defining the legal relationship and status of government entities.

Thus, the Court concluded in *BCDA v. CIR*:

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[44] The pertinent provisions of the Revised Corporation Code of the Philippines are:

SEC. 86. *Definition*. — For purposes of this Code and subject to its provisions on dissolution, a nonstock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers: *Provided*, That any profit which a nonstock corporation may obtain incidental to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized, subject to the provisions of this Title.

The provisions governing stock corporations, when pertinent, shall be applicable to nonstock corporations except as may be covered by specific provisions of this Title.

SEC. 87. *Purposes*. — Nonstock corporations may be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this Title governing particular classes of nonstock corporations.

[45] *Bases Conversion Development Authority v. Commissioner of Internal Revenue*, supra note 41, at 191.

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From the foregoing, it is clear that BCDA is neither a stock nor a nonstock corporation. BCDA is a government instrumentality vested with corporate powers. Under Section 21, Rule 141 of the Rules of Court, agencies and instrumentalities of the Republic of the Philippines are exempt from paying legal or docket fees. Hence, BCDA is exempt from the payment of docket fees.[46]

The Court notes that Section 2 (10) of the Introductory Provisions of the Administrative Code, which defines *Instrumentality* as "any agency of the National Government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter" is practically identical to the definition of *Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE)* under Section 3 (n) of R.A. 10149 as "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." While under R.A. 10149 the qualification now is "neither corporations nor agencies integrated within the departmental framework," unlike in the Administrative Code, which states "not integrated within the department framework," the addition of "corporations" as excluded entities in the term GICP/GCE is simply to reflect the main distinction between GOCCs and GICPs/GCEs — that for a government agency to be categorized as GOCC it must first be a corporation as defined in the Revised Corporation Code.

The Court also notes the definition of GOCC under Section 3 (o) of R.A. 10149:

> (o) *Government-Owned or -Controlled Corporation (GOCC)* refers to any agency organized as a stock or nonstock corporation, vested with functions relating to public needs

[46] Id. at 193.

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> whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities either wholly or, where applicable as in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock: *Provided, however*, That for purposes of this Act, the term "GOCC" shall include GICP/GCE and GFI[47] as defined herein.

The definition of a GOCC under R.A. 10149 has basically retained the definition of a GOCC under Section 2 (13) of the Introductory Provisions of the Administrative Code but reduced the ownership threshold from "at least fifty-one (51) per cent of its capital stock" to "at least a majority of its outstanding capital stock."

The Court further notes that the proviso "for purposes of this Act, the term "GOCC" shall include GICP/GCE and GFI as defined herein" is for ease of reference only and is not intended to subsume GICPs/GCEs and GFIs into the category of GOCCs such that their inherent differences have been abrogated. In other words, these three categories or classifications of government agencies have not been merged into one. The definitions and characteristics of the three different groups have been retained in R.A. 10149. The Court's observation is based on the following:

(1) The different types of agencies of the government have been respectively defined under Section 3, Definition of Terms, of R.A. 10149. If the intention was to have all agencies and instrumentalities of government be called GOCCs, then the

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[47] R.A. 10149, Sec. 3 (m) defines Government Financial Institutions (GFIs) as:

> (m) *Government Financial Institutions (GFIs)* refer to financial institutions or corporations in which the government directly or indirectly owns majority of the capital stock and which are either: (1) registered with or directly supervised by the Bangko Sentral ng Pilipinas, or (2) collecting or transacting funds or contributions from the public and place them in financial instruments or assets such as deposits, loans, bonds and equity, including, but not limited to, the Government Service Insurance System and the Social Security System.

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definitions of GICPs/GCEs and GFIs should have been included in the GOCC definition and not made separately.

(2) Aside from Section 3, GICPs/GCEs and GFIs also appear in Section 4, on Coverage: "This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, but excluding the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: *Provided*, That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG." Clearly, there is no intention to merge GICPs/GCEs and GFIs into GOCCs.

(3) In other Sections of R.A. 10149, only the term GOCC is mentioned. Its long title is "An Act to Promote Financial Viability and Fiscal Discipline in Government-Owned or-Controlled Corporations and to Strengthen the Role of the State in its Governance and Management to Make Them More Responsive to the Needs of Public Interest and for Other Purposes." Its short title pursuant to Section 1 of R.A. 10149 is the *GOCC Governance Act of 2011*. Indeed, it would be inconvenient to name it "GICP/GCE, GOCC, GFI Governance Act of 2011" and add "Government Instrumentalities with Corporate Powers/Government Corporate Entities and Government Financial Institutions" in its expanded title. In Section 2 on Declaration of Policy, it mentions that "[t]he State recognizes the potential of government-owned or -controlled corporations (GOCCs) as significant tools for economic development," without mentioning GICPs/GCEs and GFIs, but the latter are also covered, not to mention that they too are significant tools of development. Even the name of the Commission created by R.A. 10149 only GOCC is mentioned, the Governance Commission for Government-Owned or -Controlled Corporations (CGC). If only GOCCs are included, then it would not be "a central advisory, monitoring, and oversight body with authority to formulate, implement and coordinate

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policies x x x, which [is] attached to the Office of the President," as provided in Section 5.

Thus, the rulings of the Court in *Manila International Airport Authority* and *BCDA v. CIR* on which agencies of government may be classified as government instrumentalities or GICPs/ GCEs have not in any way been affected by the passage of R.A. 10149.

Going back to *Shipside Incorporated*, the Court's pronouncement that "the BCDA is not a mere agency of the Government but a corporate body performing proprietary functions"[48] no longer holds true given the Court's contrary ruling in *BCDA v. CIR* that the "BCDA is a government instrumentality vested with corporate powers,"[49] which ruling is pursuant to the *en banc* case of *Manila International Airport Authority*. In the same vein, the CA and the RTC erred in relying on *Shipside Incorporated* although they were correct in pronouncing that R.A. 10149 did not repeal R.A. 7227.

To reiterate, while Section 3 of R.A. 7227 recognizes the BCDA as a body corporate with the attribute of perpetual succession and vested with the powers of a corporation and Section 5 of R.A. 7227 vests the BCDA with the power, among others, to succeed in its corporate name, to sue and be sued in such corporate name and to adopt, alter and use a corporate seal which can be judicially noticed, these provisions do not make the BCDA a corporation, either a stock or nonstock corporation as defined under the Corporation Code as well as the Revised Corporation Code — they merely endow the BCDA with all or full corporate powers so that it can enjoy operational autonomy. And, since its capitalization provision, Section 6 of R.A. 7227, cannot qualify the BCDA as a stock or nonstock corporation, then it is an *Instrumentality* under Section 2 (10) of the Introductory Provisions of the Administrative Code as

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[48] *Shipside Incorporated v. Court of Appeals*, supra note 10, at 350.

[49] *Bases Conversion and Development Authority v. Commissioner of Internal Revenue*, supra note 41, at 193.

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well as *Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE)* under Section 3 (n) of R.A. 10149.

Given the ruling of the Court in *BCDA v. CIR* and the express classification of the BCDA as a Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE) under Section 3 (n) of R.A. 10149, the Court recognizes the BCDA as a GICP or GCE vested or endowed with the powers of a corporation, including the power to sue and be sued in its corporate name and the right to own, hold and administer the lands that have been transferred to it, with operational autonomy, and part of the National Government machinery although not integrated within the departmental framework.[50]

Since the BCDA is a GICP or GCE, what is the nature of its interest in the CAB Lands that were transferred to it by virtue of Proc. No. 163 "to own, hold and/or administer" under Section 4 (a) of R.A. 7227? Does the following pronouncement in *Shipside Incorporated* still hold true and can be applied to the CAB Lands?

> With the transfer of Camp Wallace to the BCDA, the government no longer has a right or interest to protect. Consequently, the Republic is not a real party in interest and it may not institute the instant action. Nor may it raise the defense of imprescriptibility, the same being applicable only in cases where the government is a party in interest. x x x To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced x x x. Being the owner of the areas covered by Camp Wallace, it is the Bases Conversion and Development Authority, not the Government, which stands to be benefited if the land covered by TCT No. T-5710 issued in the name of petitioner is cancelled.[51]

Unfortunately, *Shipside Incorporated* failed to consider that the authority conferred upon the BCDA to own, hold and/or

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[50] See *Manila International Airport Authority v. Court of Appeals*, supra note 38, at 618.

[51] *Shipside Incorporated v. Court of Appeals*, supra note 10, at 348-349.

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administer the military reservations and other properties or the CAB Lands, transferred to it, is not absolute but it is qualified by this provision of R.A. 7227:

SECTION 8. *Funding Scheme*. — The capital of the Conversion Authority shall come from the sales proceeds and/or transfers of certain Metro Manila military camps, including all lands covered by Proclamation No. 423, series of 1957, commonly known as Fort Bonifacio and Villamor (Nichols) Air Base, namely:

x x x x

Provided, That the following areas shall be exempt from sale:

x x x x

x x x *Provided, further*, That the boundaries and technical description of these exempt areas shall be determined by an actual ground survey.

The President is hereby authorized to sell the above lands, in whole or in part, which are hereby declared alienable and disposable pursuant to the provisions of existing laws and regulations governing sales of government properties: *Provided*, That no sale or disposition of such lands will be undertaken until a development plan embodying projects for conversion shall be approved by the President in accordance with paragraph (b), Section 4,[52] of this Act. However, six (6) months after approval of this Act, the President shall authorize the Conversion Authority to dispose of certain areas in Fort Bonifacio and Villamor as the latter so determines. The Conversion Authority shall provide the President a report on any such disposition or plan for disposition

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[52] SECTION 4. *Purposes of the Conversion Authority*. — The Conversion Authority shall have the following purposes:

x x x x

(b) To adopt, prepare and implement a comprehensive and detailed development plan embodying a list of projects including but not limited to those provided in the Legislative-Executive Bases Council (LEBC) framework plan for the sound and balanced conversion of the Clark and Subic military reservations and their extensions consistent with ecological and environmental standards, into other productive uses to promote the economic and social development of Central Luzon in particular and the country in general;

x x x x

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within one (1) month from such disposition or preparation of such plan. The proceeds from any sale, after deducting all expenses related to the sale, of portions of Metro Manila military camps as authorized under this Act, shall be used for the following purposes with their corresponding percent shares of proceeds:

(1) Thirty-two and five-tenths percent (3[2].5%) — To finance the transfer of the AFP military camps and the construction of new camps, the self-reliance and modernization program of the AFP, the concessional and long-term housing loan assistance and livelihood assistance to AFP officers and enlisted men and their families, and the rehabilitation and expansion of the AFP's medical facilities;

(2) Fifty percent (50%) — To finance the conversion and the commercial uses of the Clark and Subic military reservations and their extensions;

(3) Five percent (5%) — To finance the concessional and long-term housing loan assistance for the homeless of Metro Manila, Olongapo City, Angeles City and other affected municipalities contiguous to the bases areas as mandated herein; and

(4) The balance shall accrue and be remitted to the National Treasury to be appropriated thereafter by Congress for the sole purpose of financing programs and projects vital for the economic upliftment of the Filipino people.

Provided, That, in the case of Fort Bonifacio, two and five-tenths percent (2.5%) of the proceeds thereof in equal shares shall each go to the Municipalities of Makati, Taguig and Pateros: *Provided, further*, That in no case shall farmers affected be denied due compensation.

With respect to the military reservations and their extensions, the President upon recommendation of the Conversion Authority or the Subic Authority when it concerns the Subic Special Economic Zone shall likewise be authorized to sell or dispose those portions of lands which the Conversion Authority or the Subic Authority may find essential for the development of their projects. (Emphasis and underscoring supplied)

In *Manila International Airport Authority*, the Court held that MIAA is a mere trustee of the Republic and the Republic retained beneficial ownership of the Airport Lands and Buildings

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that were transferred from the Bureau of Air Transportation to MIAA, *viz.*:

c. MIAA is a Mere Trustee of the Republic

MIAA is merely holding title to the Airport Lands and Buildings in trust for the Republic. Section 48, Chapter 12, Book I of *the Administrative Code allows instrumentalities like MIAA to hold title to real properties owned by the Republic*, thus:

> SEC. 48. *Official Authorized to Convey Real Property*. — Whenever real property of the Government is authorized by law to be conveyed, the deed of conveyance shall be executed in behalf of the government by the following:
>
> (1) For property belonging to and titled in the name of the Republic of the Philippines, by the President, unless the authority therefor is expressly vested by law in another officer.
>
> (2) **For property belonging to the Republic of the Philippines but titled in the name of any political subdivision or of any corporate agency or instrumentality**, by the executive head of the agency or instrumentality. (Emphasis supplied)

In MIAA's case, its status as a mere trustee of the Airport Lands and Buildings is clearer because even its executive head cannot sign the deed of conveyance on behalf of the Republic. Only the President of the Republic can sign such deed of conveyance.

d. Transfer to MIAA was Meant to Implement a Reorganization

The MIAA Charter, which is a law, transferred to MIAA the title to the Airport Lands and Buildings from the Bureau of Air Transportation of the Department of Transportation and Communications. The MIAA Charter provides:

> SECTION 3. *Creation of the Manila International Airport Authority*. — x x x x
>
> **The land where the Airport is presently located as well as the surrounding land area of approximately six hundred hectares, are hereby transferred, conveyed and assigned to the ownership and administration of the Authority subject to existing rights, if any.** x x x **Any portion thereof shall not**

be disposed through sale or through any other mode unless specifically approved by the President of the Philippines. (Emphasis supplied)

x x x x

The transfer of the Airport Lands and Buildings from the Bureau of Air Transportation to MIAA was not meant to transfer beneficial ownership of these assets from the Republic to MIAA. The purpose was merely to *reorganize a division in the Bureau of Air Transportation into a separate autonomous body*. The Republic remains the beneficial owner of the Airport Lands and Buildings. MIAA itself is owned solely by the Republic. No party claims any ownership rights over MIAA's assets adverse to the Republic.

The MIAA Charter expressly provides that the Airport Lands and Buildings "*shall not be disposed through sale or through any other mode unless specifically approved by the President of the Philippines*." This only means that the Republic retained the beneficial ownership of the Airport Lands and Buildings because under Article 428 of the Civil Code, only the "owner has the right to x x x dispose of a thing." Since MIAA cannot dispose of the Airport Lands and Buildings, MIAA does not own the Airport Lands and Buildings.[53] (Italics in the original; underscoring supplied)

In *Government Service Insurance System v. City Treasurer of the City of Manila*,[54] the Court, applying the doctrine in *Manila International Airport Authority*, held that the Government Service Insurance System (GSIS), similar to MIAA, is an instrumentality of the National Government whose properties are owned by the Republic, *viz.*:

x x x [T]he subject properties under GSIS's name are likewise owned by the Republic. The GSIS is but a **mere trustee** of the subject properties which have either been ceded to it by the Government or acquired for the enhancement of the system. This particular property arrangement is clearly shown by the fact that the **disposal or**

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[53] *Manila International Airport Authority v. Court of Appeals*, supra note 38, at 626-628.

[54] G.R. No. 186242, December 23, 2009, 609 SCRA 330 [Per J. Velasco, Jr., Third Division].

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conveyance of said subject properties are either done by or through the authority of the President x x x.[55] (Emphasis and underscoring supplied)

In consonance with the aforequoted pronouncements of the Court, the Court holds, in the words of *Manila International Airport Authority*, that the BCDA is a mere trustee of the Republic. The transfer of the military reservations and other properties — the CAB Lands — from the CSEZ to the BCDA was not meant to transfer the beneficial ownership of these assets from the Republic to the BCDA. The purpose was merely to establish the BCDA as the governing body of the CSEZ.

Given that the BCDA itself is owned solely by the Republic and that R.A. 7227, the law creating the BCDA, provides that "[w]ith respect to the military reservations and their extensions, the President upon recommendation of the [BCDA] x x x shall likewise be authorized to sell or dispose those portions of lands which the [BCDA] x x x may find essential for the development of [its] projects,"[56] then it is the Republic that has retained the beneficial ownership of the CAB Lands pursuant to Article 428 of the Civil Code, which provides that only the owner has the right to dispose of a thing. Since the BCDA cannot dispose of the CAB Lands, the BCDA does not own the military reservations and their extensions, including the CAB Lands, that were transferred to it.

The BCDA's status as a mere trustee of the CAB Lands is made obvious by the fact that under the law creating it, its executive head cannot even sign the deed of conveyance on behalf of the Republic and only the President of the Republic is authorized to sign such deed of conveyance, which is a recognition that the property being disposed of belongs to the Republic pursuant to Section 48, Chapter 12, Book I of the Administrative Code, which provides:

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[55] Id. at 347.

[56] R.A. 7227, Sec. 8.

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SECTION 48. *Official Authorized to Convey Real Property*. — Whenever real property of the Government is authorized by law to be conveyed, the deed of conveyance shall be executed in behalf of the government by the following:

(1) For property belonging to and titled in the name of the Republic of the Philippines, by the President, unless the authority therefor is expressly vested by law in another officer;

(2) For property belonging to the Republic of the Philippines but titled in the name of any political subdivision or of any corporate agency or instrumentality, by the executive head of the agency or instrumentality.

Thus, the pronouncement of the Court in *Shipside Incorporated* that with respect to the transfer of Camp Wallace to the BCDA, "the government no longer has a right or interest to protect[, the BCDA being] the owner of the areas covered by Camp Wallace" no longer holds true in light of the Court's ruling in *Manila International Airport Authority* on the beneficial ownership of the Republic and the government instrumentality to which certain government assets have been transferred being regarded as mere trustee thereof when the right of disposition by the government instrumentality of such assets has been withheld, and the subsequent cases[57] that reiterated the said ruling.

Being the beneficial owner of the CAB Lands, the Republic is the real party in interest in this case.

With these pronouncements, the Court now abandons its ruling in *Shipside Incorporated* that the Republic is not the real party in interest in cases involving the title to and ownership of the military reservations and their extensions, including the CAB Lands and Camp Wallace, transferred to the BCDA. Henceforth,

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[57] See *Metropolitan Waterworks Sewerage System v. Local Government of Quezon City*, G.R. No. 194388, November 7, 2018, 884 SCRA 493 [Per J. Leonen, Third Division]; *Government Service Insurance System v. City Treasurer of Manila*, supra note 54; *Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu*, G.R. No. 181756, June 15, 2015, 757 SCRA 323 [Per J. Leonardo-de Castro, First Division].

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in cases involving the title to and ownership of the military reservations and their extensions, including the CAB Lands and Camp Wallace, transferred to the BCDA, the Republic, being the beneficial owner, is the real party in interest and not the BCDA.

The Court clarifies that the BCDA has limited ownership right and disposing power. This is recognized as one of the powers of the BCDA under Section 5 (h) of R.A. 7227: "To acquire, own, hold, administer, and lease real and personal properties, including agricultural lands, property rights and interests and encumber, lease, mortgage, sell, alienate or otherwise dispose of the same at fair market value it may deem appropriate."

Clearly, the cause of action as pleaded in the Second Amended Complaint is one for reversion with cancellation of title. This is evident from the denomination of the case as one: "For: Cancellation of Title and Reversion"[58] and the following allegations and prayer of the Second Amended Complaint:

> 7. However, the above-mentioned lots covered by survey plan Csd-11198 are portions of the Fort Stotsenburg Military Reservation (later Clark Air Force Base).
>
> 8. The aforementioned Fort Stotsenburg Military Reservation from which said lots were taken was never released as alienable and disposable land of the public domain and, therefore, is neither susceptible to disposition under the provisions of CA No. 141, the Public Land Act, nor registrable under Act No. 496, the Land Registration Act.
>
> x x x x
>
> 12. During the fact-finding investigation and relocation survey conducted by the Bureau of Lands to determine the location of the above-mentioned property in relation to the perimeter area of Clark Air Force Base, it was ascertained that the parcel of land in question was never occupied nor cultivated by the claimants thereof. The lot was found inside the Fort Stotsenburg Military Reservation (now

[58] *Rollo*, p. 72.

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Clark Air Base) which was being used as a target range then by the Clark Air Force Military personnel. Furthermore, the subdivision survey made thereon was found to be illegally undertaken as there were no monuments or markers existing on said land.

13. The 1967 Court of First Instance Decision in Cadastral Case No. 1, LRC Record No. 124 adjudicating Lot No. 965 (formerly Lot No. 42, Angeles City Cadastre) in favor of Francisco Garcia and OCT No. 83 issued in his name, are null and void *ab initio* since the land is part of the military reservation. His acquisition of subject land is tainted with fraud and misrepresentation.

14. Since OCT No. 83 issued to Francisco Garcia is null, TCT No. 107736 registered in the name of Ma. Teresita E. Bernabe is also void and without legal effect.

PRAYER

WHEREFORE, it is respectfully prayed that this Honorable Court:

1. DECLARE null TCT No. 107736 and all titles derived therefrom.

2. ORDER the Register of Deeds of Angeles City to cancel TCT No. 107736 and all titles derived therefrom.

3. ORDER defendants, their assigns, privies, and successors-in-interest to vacate and relinquish any and all rights over the land in question.[59]

Being one for reversion, the action should indeed be instituted by the OSG on behalf of the Republic pursuant to Section 101 of Commonwealth Act No. 141,[60] as amended, or the *Public Land Act*, which provides: "All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor-General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines." The Court interpreted this provision in *Republic v. Mangotara*[61] in this wise:

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[59] *Rollo*, pp. 77-79.

[60] AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN, November 7, 1936.

[61] G.R. Nos. 170375, 170505, 173355-56, 173401, 173563-64, 178779 and 178894, July 7, 2010, 624 SCRA 360 [Per J. Leonardo-de Castro, First Division].

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Clear from the aforequoted provision that the authority to institute an action for reversion, on behalf of the Republic, is primarily conferred upon the OSG. While the OSG, for most of the time, will file an action for reversion upon the request or recommendation of the Director of Lands, there is no basis for saying that the former is absolutely bound or dependent on the latter.[62]

It must be recalled that the authority of the Director of Lands is limited to those disposable lands of public domain which have been proclaimed to be subject to disposition under the *Public Land Act* or Commonwealth Act No. 141.[63] In the present case, the CAB Lands have been transferred to the BCDA as the trustee thereof and, thus, the Director of Lands can no longer be deemed the administrator of the CAB Lands on the assumption that they have already been proclaimed as disposable lands of public domain.

Regarding the second issue, the CA found the VCAFS attached to the Second Amended Complaint defective, *viz.*:

As previously discussed in *Shipside [Incorporated]* citing Section 3 of [R.A.] 7227, BCDA is not a mere agent of the government but an entity endowed with corporate personality and power tasked to perform proprietary functions. On this premise, this Court is persuaded that OSG's commencement of the instant complaint, and the signing of the [VCAFS] are matters beyond the official functions of BCDA, much less, its President and Chief Executive Officer.

Further, assuming that BCDA is competent to act in behalf of the Republic, Atty. Casanova's signature on the [VCAFS] may not be deemed valid because of lack of any evidence showing that he was particularly authorized by the BCDA Board to sign the said documents. As a body corporate, BCDA has the attributes of a corporation and it acts only through its corporate officers by virtue of resolution issued

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[62] Id. at 477.

[63] See *Taar v. Lawan*, G.R. No. 190922, October 11, 2017, 842 SCRA 365, 399-400 [Per J. Leonen, Third Division], citing *Lorzano v. Tabayag*, G.R. No. 189647, February 6, 2012, 665 SCRA 38 [Per J. Reyes, Second Division] and *Kayaban v. Republic*, No. L-33307, August 30, 1973, 52 SCRA 357 [Per C.J. Makalintal, *En Banc*].

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by its board. Absent any proof manifesting authority granted to Atty. Casanova by the BCDA Board, said documents are to be deemed defective.[64]

Since the basis for the CA and the RTC in ruling that the VCAFS executed by the BCDA's President and CEO is their reliance on *Shipside Incorporated*, which the Court now finds to be not in accord with R.A. 7227, the Administrative Code and R.A. 10149, as well as prevailing jurisprudence, the BCDA, being the trustee of the CAB Lands, through its authorized signatory, can execute the VCAFS.

The authority of the BCDA's President and CEO to sign the VCAFS is also being questioned on the alleged lack of the resolution of the Board of the BCDA designating him as the authorized signatory.

In *Altres v. Empleo*,[65] the Court *en banc* restated in capsule form the jurisprudential pronouncements respecting non-compliance with the requirements on, or submission of defective, VCAFS, *viz.*:

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed *substantially complied* with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

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[64] *Rollo*, pp. 48-49.

[65] G.R. No. 180986, December 10, 2008, 573 SCRA 583 [Per J. Carpio Morales, *En Banc*].

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4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."

5) The certification against forum shopping must be signed by *all* the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his own behalf.[66]

In *Shipside Incorporated*, the defect in the VCAFS, consisting of the failure to show proof that Lorenzo Balbin, the resident manager for petitioner therein, who was the signatory in the VCAFS, was authorized by petitioner's board of directors to file such a petition, was brushed aside:

In certain exceptional circumstances, however, the Court has allowed the belated filing of the certification. x x x In all these cases, there were special circumstances or compelling reasons that justified the relaxation of the rule requiring verification and certification on non-forum shopping.

In the instant case, the merits of petitioner's case should be considered special circumstances or compelling reasons that justify tempering the requirement in regard to the certificate of non-forum shopping. x x x With more reason should we allow the instant petition since petitioner herein *did submit a certification on non-forum shopping*, failing only to show proof that the signatory was authorized to do so. That petitioner subsequently submitted a secretary's certificate

[66] Id. at 596-598.

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attesting that Balbin was authorized to file an action on behalf of petitioner likewise mitigates this oversight.

It must also be kept in mind that while the requirement of the certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping. x x x Lastly, technical rules of procedure should be used to promote, not frustrate justice. While the swift unclogging of court dockets is a laudable objective, the granting of substantial justice is an even more urgent ideal.[67]

A perusal of the Secretary's Certificate[68] dated February 6, 2018 attached to the Petition shows that on the occasion of the 504th Regular Board Meeting of the BCDA Board held on November 22, 2017, Resolution No. 2017-11-184 was approved, authorizing the OSG to file the cancellation of titles and/or reversion cases against claimants of properties that form part of the Fort Stotsenburg Military Reservation in Angeles City, Pampanga, and the President and CEO, or the Executive Vice President, or the General Counsel of the BCDA, is authorized to verify, certify and execute a certificate against non-forum shopping. The Court notes that the Secretary's Certificate has been belatedly filed and could not under ordinary circumstances cure the defect of the VCAFS attached to the Second Amended Complaint. However, given the special circumstances and jurisprudential significance of the present case, the Court deems it proper in the interest of justice to relax the rule with respect to the requirements on the VCAFS and that there was substantial compliance by the Republic with the said requirements.

WHEREFORE, the Petition is hereby **GRANTED**. Accordingly, the Decision dated February 21, 2018 of the Court of Appeals in CA-G.R. CV No. 104631 is **REVERSED** and **SET ASIDE**. The Second Amended Complaint for cancellation of title and reversion filed by the Republic of the Philippines

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[67] *Shipside Incorporated v. Court of Appeals*, supra note 10, at 346-347.

[68] *Rollo*, pp. 29-30.

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in Civil Case No. 11682 with the Regional Trial Court of Angeles City, Branch 59 is **REINSTATED** and the said Regional Trial Court is directed to hear and resolve the case with immediate dispatch.

SO ORDERED.

Peralta, C.J., Leonen, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Perlas-Bernabe, J., no part.

Baltazar-Padilla, J., on leave.