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Assuming that petitioners took possession of the property in the early 1970s, the filing by respondents of the Complaint in 1977 completely negates the assertion that the latter were negligent in asserting their claim.

WHEREFORE, the Petition is hereby ***DENIED***, and the assailed Decision and Resolution ***AFFIRMED***. Costs against petitioners.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.*, concur.

THIRD DIVISION

[G.R. No. 146382. August 7, 2003]

SYSTEMS PLUS COMPUTER COLLEGE OF CALOOCAN CITY, *petitioner, vs.* **LOCAL GOVERNMENT OF CALOOCAN CITY, MAMERTO MANAHAN, ATTY. NESTOR D. FRANCISCO, as City Assessor and City Legal Officer of Caloocan City, and ADORACION ANGELES, Presiding Judge, Regional Trial Court of Caloocan City, Branch 121,** *respondents*.

SYNOPSIS

Petitioner is a non-stock and non-profit educational institution which enjoys property tax exemption from the local government on its buildings but not on the parcels of land which it is renting from its sister companies. Petitioner twice requested respondent City Government of Caloocan, through its City Assessor and Administrator, to extend the exemption to the parcels of land claiming that the same were being used actually, directly and exclusively for educational purposes, but said requests were denied. Petitioner filed a petition for *mandamus*,

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but the same was dismissed by the trial court for being premature. Its timely motion for reconsideration having been denied, petitioner filed the instant petition for *certiorari* imputing grave abuse of discretion on the part of the trial court when it ruled that *mandamus* does not lie against the public respondents and that petitioner failed to exhaust available administrative remedies.

In dismissing the petition, the Supreme Court ruled that where administrative remedies are available, a petition for *mandamus* does not lie. Under the Local Government Code of 1991, the remedy of appeal to the Local Board of Assessment Appeals is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of property. The determination made by the respondent City Assessor with regard to the taxability of the subject real properties squarely falls within its power to assess properties for taxation purposes subject to appeal before the Local Board of Assessment Appeals and the Central Board of Assessment Appeals, if necessary. The petitioner cannot bypass the authority of the concerned administrative agencies and directly seek redress from the courts even on the pretext of raising a supposedly pure question of law without violating the doctrine of exhaustion of administrative remedies.

The Court likewise held that *mandamus* does not lie against respondent City Assessor in the exercise of his function of assessing properties for taxation purposes. While its duty to conduct assessments is a ministerial function, the actual exercise thereof is necessarily discretionary. Well-settled is the rule that *mandamus* may not be availed of to direct the exercise of judgment or discretion in a particular way, or to retract or reverse an action already taken in the exercise of either.

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *MANDAMUS*; DOES NOT LIE WHERE ADMINISTRATIVE REMEDIES ARE AVAILABLE.**— *Mandamus* is defined as a writ commanding a tribunal, corporation, board or person to do the act required to be done when it or he unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station, or unlawfully

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excludes another from the use and enjoyment of a right or office or which such other is entitled, there being no other plain, speedy, and adequate remedy in the ordinary course of law. Where administrative remedies are available, a petition for *mandamus* does not lie.

2. **POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE OF 1991; LOCAL BOARD OF ASSESSMENT APPEALS; EXERCISES JURISDICTION OVER APPEALS FROM ADVERSE RULING OF PROVINCIAL, CITY OR MUNICIPAL ASSESSOR IN THE ASSESSMENT OF PROPERTY.**— Under Section 226 of RA 7160, the remedy of appeal to the Local Board of Assessment Appeals is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of property, thus: "Section 226. Local Board of Assessment Appeals. — Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal."

3. **ID.; ID.; EXHAUSTION OF ADMINISTRATIVE REMEDIES; MUST BE AVAILED OF BY A PARTY BEFORE SEEKING THE INTERVENTION OF COURTS.**— It must be stressed that the authority to receive evidence, as basis for classification of properties for taxation, is legally vested on the respondent City Assessor whose action is appealable to the Local Board of Assessment Appeals and the Central Board of Assessment Appeals, if necessary. The petitioner cannot bypass the authority of the concerned administrative agencies and directly seek redress from the courts even on the pretext of raising a supposedly pure question of law without violating the doctrine of exhaustion of administrative remedies. Hence, when the law provides for remedies against the action of an administrative board, body, or officer, as in the case at bar, relief to the courts can be made only after exhausting all remedies provided therein. Otherwise stated, before seeking the intervention of the courts, it is a precondition that petitioner should first avail of all the means afforded by the administrative processes.

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4. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *MANDAMUS*; MAY NOT BE AVAILED OF TO DIRECT THE EXERCISE OF JUDGMENT OR DISCRETION IN A PARTICULAR WAY.— *[M]andamus* does not lie against the respondent City Assessor in the exercise of his function of assessing properties for taxation purposes. While its duty to conduct assessments is a ministerial function, the actual exercise thereof is necessarily discretionary. Well-settled is the rule that *mandamus* may not be availed of to direct the exercise of judgment or discretion in a particular way, or to retract or reverse an action already taken in the exercise of either.

APPEARANCES OF COUNSEL

J. Potenciano F. Napenas, Jr. for petitioner.
Egbert S. Capalla for private respondent.

D E C I S I O N

CORONA, *J.*:

The instant petition for *certiorari* assails the Resolution[1] of the respondent Regional Trial Court of Caloocan City, Branch 121, dated December 29, 1999, dismissing the petition for *mandamus* in Civil Case No. C-595, and the Order dated February 23, 2000 denying the subsequent motion for reconsideration.

Petitioner Systems Plus Computer College is a non-stock and non-profit educational institution organized and established in 1997 with business address at 141-143 10th Avenue, Caloocan City. As such, it enjoys property tax exemption from the local government on its buildings but not on the parcels of land which petitioner is renting for ₱5,000 monthly from its sister companies, Consolidated Assembly, Inc. (Consolidated Assembly) and Pair Management and Development Corporation (Pair Management).

On January 8, 1998, petitioner requested respondent City Government of Caloocan, through respondent Mamerto Manahan, City Assessor and Administrator, to extend tax exemption to

[1] Penned by Judge Adoracion G. Angeles, *Rollo*, pp. 52-54.

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the parcels of land claiming that the same were being used actually, directly and exclusively for educational purposes pursuant to Article VI, Section 28(3) of the 1987 Constitution[2] and other applicable provisions of the Local Government Code.

On February 5, 1998, respondent City Government, on recommendation of respondent Atty. Nestor Francisco, City Legal Officer, denied the request on the ground that the subject parcels of land were owned by Consolidated Assembly and Pair Management which derived income therefrom in the form of rentals and other local taxes assumed by the petitioner. Hence, from the land owners' standpoint, the same were not actually, directly and exclusively used for educational purposes.[3]

On February 15, 1999, the petitioner, on the one hand, and the Consolidated Assembly and Pair Management, on the other, entered into separate agreements[4] which in effect novated their existing contracts of lease on the subject parcels of land and converted them to donations of the beneficial use thereof.

On February 19, 1999, the petitioner wrote respondent City Assessor informing the latter of the new agreements and seeking a reconsideration of respondent's earlier denial of the application for tax exemption.[5] In this connection, a duly notarized certification[6] jointly issued by Consolidated Assembly and Pair Management to the effect that they no longer received income by way of rentals from the subject properties, accompanied by the corresponding board resolutions,[7] were submitted by the

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[2] Article VI, Section 28(3) of the 1987 Constitution reads:

"Charitable institution, churches, parsonages or convents appurtenant thereto, mosques and non-profit cemeteries, and all lands, buildings, and improvement actually, directly and exclusively used for religious, charitable or educational purposes, shall be exempt from taxation."

[3] Petition, Annex "E," *Rollo*, pp. 32-36.

[4] Petition, Annexes "F" and "G," *Rollo*, pp. 37-40.

[5] Petition, Annex "H," *Rollo*, p. 41.

[6] Petition, Annex "L," *Rollo*, p. 46.

[7] Petition, Annexes "J" and "K," *Rollo*, pp. 43-45.

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petitioner. Nevertheless, on July 21, 1999, respondent city government again denied the application for tax exemption, reasoning out as follows:

> Firstly, it may be reasonably implied from the above facts that SYSTEMS COMPUTER COLLEGE is an agency for its sister corporations, particularly, PAIR MANAGEMENT & DEVELOPMENT CORPORATION and CONSOLIDATED ASSEMBLY, INC. to evade payment of Real Property Taxes.
>
> It bears stress (*sic*) that immediately after the denial by this Office of the first request of SYSTEMS PLUS COMPUTER COLLEGE for Real Property Tax Exemption of the properties then leased to it by its sister companies; PAIR MANAGEMENT & DEVELOPMENT CORPORATION and CONSOLIDATED ASSEMBLY, INC., the latter corporations donated the beneficial use of the subject properties to SYSTEMS PLUS COMPUTER COLLEGE, if only to evade payment of Real Property Taxes.
>
> The revenue officers, in proper cases, may disregard the separate corporate entity where it serves as a shield for tax evasion. x x x
>
> Secondly, the grant of exemption from taxation rests upon the theory that an exemption will benefit the body of people, and not upon any idea of lessening the burden of individual or corporate owners.
>
> Thirdly, while the beneficial use of the properties being sought to be exempt from Real Property Taxes were donated to SYSTEMS PLUS COMPUTER COLLEGE, there is no showing that the same are "actually, directly and exclusively" used either for religious, charitable, or educational purposes.[8]

Twice debunked, petitioner filed a petition for *mandamus* with the respondent Regional Trial Court of Caloocan City, Branch 121, which, however, dismissed it for being premature. Its timely motion for reconsideration having been denied, petitioner filed the instant petition for *certiorari*[9] imputing grave abuse of discretion on the part of the trial court when it ruled: (1) that *mandamus* does not lie against the public respondents and (2) that petitioner failed to exhaust available administrative remedies.

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[8] Petition. Annex "N." *Rollo*. pp. 48-51.

[9] *Rollo*. pp. 3-15.

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Mandamus is defined as a writ commanding a tribunal, corporation, board or person to do the act required to be done when it or he unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station, or unlawfully excludes another from the use and enjoyment of a right or office or which such other is entitled, there being no other plain, speedy, and adequate remedy in the ordinary course of law.[10] Where administrative remedies are available, a petition for *mandamus* does not lie.[11]

Under Section 226 of RA 7160,[12] the remedy of appeal to the Local Board of Assessment Appeals is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of property, thus:

> Section 226. Local Board of Assessment Appeals. — Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

However, petitioner argues that it is not contesting any assessment made by respondent City Assessor. Petitioner's argument obviously proceeds from its misunderstanding of the term "assessment." Under Section 199(f), Title II, Book II, of the Local Government Code of 1991, "assessment" is defined as the act or process of determining the value of a property, or proportion thereof subject to tax, including the discovery, listing, *classification* and appraisal of properties. Viewed from this broader perspective, the determination made by the respondent

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[10] Rule 65, Section 3, Revised Rules of Court.

[11] *Militante vs. Court of Appeals*, 330 SCRA 318, 330-331 [20001 citing *Perez vs. City Mayor of Cabanatuan*, 3 SCRA 431, 434 [1961]; *Booc vs. Osmeña, Jr.*, 2 SCRA 418, 422 [1961].

[12] Local Government Code of 1991.

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City Assessor with regard to the taxability of the subject real properties squarely falls within its power to assess properties for taxation purposes subject to appeal before the Local Board of Assessment Appeals.

Petitioner also argues that it is seeking to enforce, through the petition for *mandamus*, a clear legal right under the Constitution and the pertinent provisions of the Local Government Code granting tax exemption on properties actually, directly and exclusively used for educational purposes. But petitioner is taking an unwarranted shortcut. The argument gratuitously presumes the existence of the fact which it must first prove by competent and sufficient evidence before the City Assessor. It must be stressed that the authority to receive evidence, as basis for classification of properties for taxation, is legally vested on the respondent City Assessor whose action is appealable to the Local Board of Assessment Appeals and the Central Board of Assessment Appeals, if necessary.

The petitioner cannot bypass the authority of the concerned administrative agencies and directly seek redress from the courts even on the pretext of raising a supposedly pure question of law without violating the doctrine of exhaustion of administrative remedies. Hence, when the law provides for remedies against the action of an administrative board, body, or officer, as in the case at bar, relief to the courts can be made only after exhausting all remedies provided therein.[13] Otherwise stated, before seeking the intervention of the courts, it is a precondition that petitioner should first avail of all the means afforded by the administrative processes.[14]

Besides, *mandamus* does not lie against the respondent City Assessor in the exercise of his function of assessing properties for taxation purposes. While its duty to conduct assessments is a ministerial function, the actual exercise thereof is necessarily discretionary. Well-settled is the rule that *mandamus* may not be availed of to direct the exercise of judgment or discretion in

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[13] *Lopez vs. City of Manila*, 303 SCRA 448, 458 [1999].

[14] *Zabat vs. Court of Appeals*, 338 SCRA 551, 560 [2000].

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a particular way, or to retract or reverse an action already taken in the exercise of either.[15]

WHEREFORE, the instant petition for *certiorari* is hereby *DISMISSED*.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and *Carpio Morales, JJ.*, concur.

FIRST DIVISION

[G.R. No. 148557. August 7, 2003]

FELICITO ABARQUEZ, *petitioner, vs.* **COURT OF APPEALS (Special Former Seventh Division) and the PEOPLE OF THE PHILIPPINES,** *respondents.*

SYNOPSIS

Petitioner was found guilty by the trial court of five counts of violations of Batas Pambansa Blg. 22. On appeal, the Court of Appeals (CA) affirmed the decision of the trial court with modification as to the amount of fine by ordering petitioner to pay a fine which is double the total amount of the five checks issued by him. The penalty of imprisonment was deleted. Hence, this appeal.

The Supreme Court acquitted petitioner in Criminal Cases Nos. D-8135 and D-8136 because petitioner paid the face value of the subject checks before receipt of any formal written demand to pay. The *prima facie* presumption that the drawer has knowledge of the insufficiency of funds or credit at the

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[15] *JG Summit Holdings, Inc. vs. Court of Appeals*, 345 SCRA 143, 152-153 [2000].