Supreme Court E-Library



**FIRST DIVISION**

[G.R. No. 225226. July 7, 2020]

**THE CITY OF MAKATI,** *petitioner, vs.* **THE MUNICIPALITY OF BAKUN and LUZON HYDRO CORPORATION,** *respondents.*

**SYLLABUS**

1. **REMEDIAL LAW; JURISDICTION; THE COURT OF TAX APPEALS (CTA) HAS APPELLATE JURISDICTION OVER LOCAL TAX CASES DECIDED BY THE REGIONAL TRIAL COURT IN THE EXERCISE OF THE LATTER'S ORIGINAL JURISDICTION.—** [T]he CTA has appellate jurisdiction over local tax cases decided by the RTC in the exercise of the latter's original jurisdiction [as provided under] Sec. 7, paragraph (a) (3) of R.A. No. 1125, as amended by R.A. No. 9282, x x x That the case filed before the RTC was in the mode of a special civil action for interpleader does not detract from its nature as a local tax case, involving as it does the application of the rules on situs on the payment of local business taxes. There is no need to distinguish it from other local tax cases "considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power."

2. **TAXATION; LOCAL BUSINESS TAXES; RIGHT OF A LOCAL GOVERNMENT UNIT TO PARTICIPATE IN THE 70% PORTION OF BUSINESS TAX; THE BUSINESS OFFICE MUST BE A PROJECT OFFICE.—** We now address the core issue of whether LHC's Makati office was a project office or a mere administrative office, in order to determine whether [respondent's] or not it had a right to participate in the 70% portion of LHC's business tax. x x x [T]he CTA took into account where LHC's sales, transactions and operations were undertaken. Having noted that these did not take place at the Makati office, the tax court concluded that it was a mere administrative office. x x x The subject tax is a tax on business, particularly one that is expressly imposed on gross sales recorded.

Supreme Court E-Library



> x x x The rules on tax allocation in relation to tax situs under Sec. 150 of R.A. No. 7160 come into play when a business subject to it does not operate a branch or sales office outside of its principal office where all sales are recorded, but has a factory, project office, plant, or plantation situated in different localities, whether or not sales are made in these localities. Thus, even if no sales were recorded or undertaken at LHC's Makati office, Makati would have been entitled to share with LHC's power plant sites in the 70% portion of the business tax if it could be shown that the Makati office was a project office of LHC akin to a factory. The enumeration itself — factory, project office, plant, or plantation — reveals the character of the office contemplated by the provision. These are offices directly involved in production or operations; hence, the inescapable conclusion that LHC's Makati office was a mere administrative office.

**APPEARANCES OF COUNSEL**

*Anthony T. Zamora* for petitioner.
*Puno & Puno* for Luzon Hydro Corporation.
*Benguet Provincial Legal Office* for Municipality of Bakun.

**D E C I S I O N**

**REYES, J. JR., *J.*:**

Before us is a Petition for Review on *Certiorari* under Rule 45 seeking the reversal of the Decision[1] in CTA EB Case No. 1179 rendered by the Court of Tax Appeals (CTA) *En Banc* on January 14, 2016 and its Resolution[2] dated June 8, 2016 denying reconsideration.

---

[1] Penned by Associate Justice Cielito N. Mindara-Grullo, with Presiding Justice Ramon C. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Amelia R. Cotangco-Manalastas and Ma. Belen Ringpis-Liban, concurring; *rollo*, pp. 37-51.

[2] *Id.* at 52-55.

Supreme Court E-Library



The case sprang from a special civil action for interpleader under Rule 62, with prayer for preliminary injunction and/or temporary restraining order, filed before the Regional Trial Court (RTC) of Makati City, Branch 134 on January 16, 2007.[3] Luzon Hydro Corporation (LHC) sought to compel the City of Makati (Makati), the Municipality of Alilem (Alilem), and the Municipality of Bakun (Bakun) to litigate among themselves their conflicting claims on LHC's liability for local business tax under Republic Act (R.A.) No. 7160.[4]

LHC operates a hydroelectric power plant harnessing the Bakun River that runs through the Provinces of Ilocos Sur and Benguet. The major components of the facility, such as the power station and switch yard are situated in Alilem, Ilocos Sur. Other structures, such as the conveyance tunnel, penstock, weir, intakes, and desander are located in Bakun, Benguet. LHC maintained an office in Makati City.[5]

Until 2003, LHC enjoyed a six-year tax holiday as an entity engaged in a pioneer area of investment registered with the Board of Investments. In 2004, LHC began paying local business taxes to Alilem, Bakun, and Makati. LHC pays Alilem the 30% portion of its local business tax allocated for the site of the principal office, conformably with Section (Sec.) 150 of R.A. No. 7160,[6] given that Alilem is specified as the location of

---

[3] *Id.* at 56.

[4] LOCAL GOVERNMENT CODE OF 1991.

[5] *Rollo*, p. 56.

[6] Section 150. *Situs of the Tax.* —

(a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other **businesses, maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall**

Supreme Court E-Library



LHC's principal office in its Articles of Incorporation. For three years since 2004, the 70% portion of the local business tax was equally apportioned among Alilem, Bakun, and Makati, such that each local government unit (LGU) received 23.33% — Alilem and Bakun as power plant sites and Makati as a "project office" site.[7] It is the sharing in the 70% portion that became the bone of contention among the three LGUs.

*Via* Resolution No. 168-2004 dated September 20, 2004, Bakun questioned the sharing scheme and claimed the entire 70% portion of the local business tax. The matter was submitted to the Bureau of Local Government and Finance (BLGF) for determination.[8]

On February 8, 2006, the BLGF opined that only Bakun and Alilem should share in the 70% portion of LHC's local business tax because LHC's Makati office was a mere "administrative office" and not among the sites enumerated in Sec. 150 of R.A. No. 7160.[9] According to the BLGF, Makati can only collect the mayor's permit fee and other regulatory fees under its existing local tax ordinances.[10]

Consequently, Bakun passed Resolution No. 134-2006 requiring LHC to prospectively comply with the BLGF opinion,

---

**be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality**;

(b) The following **sales allocation** shall apply to manufacturers, assemblers, contractors, **producers**, and exporters **with factories, project offices, plants, and plantations in the pursuit of their business**:

(1) **Thirty percent (30%) of all sales recorded in the principal office** shall be taxable by the city or municipality **where the principal office is located**; and

(2) **Seventy percent (70%) of all sales recorded in the principal office** shall be taxable by the **city or municipality where the** factory, **project office, plant**, or plantation is located. (Emphasis supplied)

x x x x x x x x x

[7] *Rollo*, p. 39.

[8] *Id.*

[9] *Supra* note 6.

[10] *Rollo*, pp. 39-40.

Supreme Court E-Library



and assessed LHC deficiency taxes for the years 2004 to 2006. Alilem followed suit and issued Resolution No. 07-02, also requiring LHC to comply with the BLGF opinion. Makati, on the other hand, informed LHC that it would still assess the latter's local business tax notwithstanding the BLGF opinion. To resolve the ensuing uncertainty, LHC filed the action for interpleader.[11]

The RTC of Makati City found that LHC's Makati office was a "project office," which entitled Makati to an equal share with LHC's power plant sites from the 70% portion of LHC's business tax. In view, however, of Makati's representation[12] on the witness stand that it was willing to have its share in the tax reduced, as long as its share is not completely done away with, the RTC reduced its share to 20% instead. Thus, in a Decision[13] dated April 20, 2012, the RTC of Makati City, Branch 134, disposed:

> WHEREFORE, premises considered, the petition for interpleader is hereby given due course. Defendants Municipalities of Alilem and Bakun as well as the City of Makati are all declared entitled to the 70% business tax allocation of the plaintiff to be distributed starting taxable year 2012, as follows:
>
> Municipality of Alilem — 25% (as site of the plant)
> Municipality of Bakun — 25% (as site of the plant)
> City of Makati — 20% (as "project office")
>
> SO ORDERED.[14]

Bakun moved for reconsideration, which was denied by the RTC on September 12, 2012, prompting the said municipality to file a petition for review before the CTA.[15]

---

[11] *Id.* at 40.

[12] *Id.* at 68.

[13] Penned by Presiding Judge Perpetua Atal-Paño; *id.* at 56-69.

[14] *Id.* at 69.

[15] *Id.* at 83.

Supreme Court E-Library



Finding this time that LHC's Makati office was merely an "administrative office" where none of LHC's sales were recorded or undertaken, the CTA Special First Division issued a Decision[16] on November 8, 2013, disposing:

> **WHEREFORE**, the Petition for Review dated November 14, 2012 filed by petitioner Municipality of Bakun is **PARTIALLY GRANTED**. Accordingly, the Decision dated April 20, 2012 and the Order dated September 12, 2012 of the RTC in Civil Case No. 07-049 are hereby **REVERSED** and **SET ASIDE**. The Municipalities of Bakun and Alilem are hereby declared the only local government units entitled to equally share in the 70% allocation made by LHC for the payment of its local business [tax].
>
> **SO ORDERED**.[17]

Makati sought reconsideration of the CTA Special First Division's Decision on December 23, 2013, while Bakun moved for its partial reconsideration on January 15, 2014. Both these motions were denied for lack of merit in a Resolution[18] dated April 30, 2014. Aggrieved by the tax court's reversal of the RTC's decision, Makati filed a Petition for Review[19] before the CTA *En Banc*.

Concurring with its Special First Division's findings and conclusion, the CTA *En Banc* arrived at the currently assailed Decision, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the petition is **DENIED** for lack of merit. The Decision of the Special First Division of this Court in CTA AC No. 100, promulgated on November 8, 2013 and its Resolution, promulgated on April 30, 2014, are hereby **AFFIRMED**. No pronouncement as to costs.
>
> **SO ORDERED**.[20]

---

[16] *Id.* at 79-95.

[17] *Id.* at 94.

[18] *Id.* at 110-116.

[19] *Id.* at 117-136.

[20] *Id.* at 51.

Supreme Court E-Library



Makati moved for reconsideration of the CTA *En Banc's* Decision, which was denied for lack of merit on June 8, 2016 *via* its now assailed Resolution.[21]

Undeterred, Makati filed the present petition submitting the following for our review:

I. WHETHER OR NOT THE COURT OF TAX APPEALS *EN BANC* AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN IGNORING THE FINDINGS OF [FACT] OF THE TRIAL COURT, RTC-MAKATI CITY, BRANCH 134, WHICH CONDUCTED THE HEARINGS AND TRIALS OF THE PRESENT CASE, WHEREIN IT WAS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE IN THE HONORABLE REGIONAL TRIAL COURT THAT LUZON HYDRO CORPORATION'S ("LHC") OFFICE IN MAKATI CITY IS A PRODUCER/POWER GENERATION OFFICE OR "PROJECT OFFICE," NOT A MERE ADMINISTRATIVE OFFICE[;]

II. WHETHER OR NOT THE COURT OF TAX APPEALS *EN BANC* AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN APPLYING LOCAL FINANCE CIRCULAR NO. 03-95 ENTITLED "PRESCRIBING GUIDELINES GOVERNING THE POWER OF CITIES AND MUNICIPALITIES TO IMPOSE BUSINESS TAX ON CONSTRUCTION CONTRACTORS PURSUANT TO SECTION 143(e), REPUBLIC ACT NO. 7160, x x x" dated MAY 22, 1995 TO SUPPORT ITS RULING THAT THE OFFICE OF LHC IN MAKATI IS NOT A PROJECT OFFICE[;]

III. WHETHER OR NOT THE BLGF OPINION DATED 08 MARCH 2006 HAS NO BINDING AND MANDATORY EFFECT[;]

IV. WHETHER OR NOT THE COURT OF TAX APPEALS *EN BANC* AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN RULING IN FAVOR OF A PARTY, MUNICIPALITY OF ALILEM, WHICH DID NOT EVEN FILE AN APPEAL BEFORE THE COURT OF TAX

[21] *Supra* note 2.

Supreme Court E-Library



APPEALS, AND THEREFORE, AS FAR AS MUNICIPALITY OF ALILEM IS CONCERNED, THE DECISION DATED 20 APRIL 2012 RENDERED BY THE HONORABLE RTC-MAKATI CITY SHOULD HAVE BECOME FINAL AND EXECUTORY[; AND]

V. WHETHER OR NOT THE COURT OF TAX APPEALS *EN BANC* AND [ITS SPECIAL FIRST DIVISION] GRAVELY ERRED IN TAKING COGNIZANCE OF THE PRESENT APPEAL FROM A "SPECIAL CIVIL ACTION FOR INTERPLEADER," WHICH IS NOT WITHIN THE APPELLATE JURISDICTION OF THE COURT OF TAX APPEALS.[22]

On October 12, 2016, Bakun filed its Comment[23] on the current petition, reiterating that LHC's Makati office was a mere "administrative office" and consequently not entitled to share in LHC's local business tax allocation.

LHC also filed a Comment[24] on the petition on October 20, 2016 maintaining that the CTA had jurisdiction over the case, involving as it did an appeal from a decision of the RTC in a local tax case. LHC also informs us that it ceased any business presence in Makati as of March 31, 2013. Furthermore, it had consigned its local business tax allocations up to 2012 with the RTC of Makati City. Thus, LHC asserts that it had fully settled its local business taxes from 2004 up to the present, either directly paid to the LGUs or consigned with the RTC.

We put the matter to rest.

Certainly, the CTA has appellate jurisdiction over local tax cases decided by the RTC in the exercise of the latter's original jurisdiction. Sec. 7, paragraph (a) (3) of R.A. No. 1125, as amended by R.A. No. 9282,[25] provides:

---

[22] *Rollo*, pp. 18-20.

[23] *Id.* at 180-188.

[24] *Id.* at 190-198.

[25] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A

Supreme Court E-Library



Section 7 of the same Act is hereby amended to read as follows:

SEC. 7. Jurisdiction. — The [Court of Tax Appeals] shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x x x x x x x

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[.]

x x x x x x x x x

That the case filed before the RTC was in the mode of a special civil action for interpleader does not detract from its nature as a local tax case, involving as it does the application of the rules on situs on the payment of local business taxes. There is no need to distinguish it from other local tax cases "considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power."[26]

We now address the core issue of whether LHC's Makati office was a project office or a mere administrative office, in order to determine whether or not it had a right to participate in the 70% portion of LHC's business tax.

A careful reading of the assailed decision does not yield the conclusion that the CTA relied on the BLGF's opinion in ascertaining the nature of LHC's Makati office, as Bakun and Alilem had done when they claimed a greater share in the 70% portion of the business tax as power plant sites. Instead, the

---

COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, March 30, 2000.

[26] *City of Lapu-Lapu v. Phil. Economic Zone Authority*, 748 Phil. 481-482, 530 (2014).

Supreme Court E-Library



CTA took into account where LHC's sales, transactions and operations were undertaken. Having noted that these did not take place at the Makati office, the tax court concluded that it was a mere administrative office. In view of the CTA having made an independent determination on the matter, there is no need to quibble over whether or not the BLGF's opinion carries a binding effect.

To be sure, the BLGF is not an administrative agency whose findings on questions of fact are given weight and deference in the courts. The authorities cited by petitioner pertain to the Court of Tax Appeals, a highly specialized court which performs judicial functions as it was created for the review of tax cases. In contrast, the BLGF was created merely to provide consultative services and technical assistance to local governments and the general public on local taxation, real property assessment, and other related matters, among others.[27]

In tackling what constitutes a project office, it was not erroneous for the CTA to cite Department of Finance-Local Finance Circular No. 3-95[28] dated May 22, 1995. On the situs of tax, Sec. 5 (a) (3) of the said circular defines a project office as "equivalent to the factory of a manufacturer." While the circular concerned applies to construction contractors, it was nonetheless addressed to all Treasurers of LGUs, clarifying the imposition of business taxes under Sec. 143 of R.A. No. 7160[29] for a uniform application. While the circular addressed a different economic activity from that of hydroelectric power generation, its definition of a project office is a sound guide for parity of reasoning. A distinction is not even called for, since both activities are covered by local taxation on business

---

[27] *Philippine Long Distance Telephone Company, Inc. v. City of Davao*, 415 Phil. 768, 779-780 (2001).

[28] PRESCRIBING GUIDELINES GOVERNING THE POWER OF CITIES AND MUNICIPALITIES TO IMPOSE BUSINESS TAX ON CONSTRUCTION CONTRACTORS PURSUANT TO SECTION 143 (C), REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND ITS IMPLEMENTING RULES AND REGULATIONS.

[29] *Supra* note 4.

Supreme Court E-Library



and its rules on tax situs. There is nothing in the provisions to support a less than uniform application between construction contractors and power producers. In the present case, LHC's Makati office could not be viewed as equivalent to a factory or a project office.

The subject tax is a tax on business, particularly one that is expressly imposed on gross sales recorded. For this reason, it was relevant to the CTA's discussion to consider that invoices or records of all sales are not handled by LHC's Makati office, nor does it operate any aspect or primary purpose of LHC as provided in its Articles of Incorporation.

The rules on tax allocation in relation to tax situs under Sec. 150 of R.A. No. 7160[30] come into play when a business subject to it does not operate a branch or sales office outside of its principal office where all sales are recorded, but has a factory, project office, plant, or plantation situated in different localities, whether or not sales are made in these localities. Thus, even if no sales were recorded or undertaken at LHC's Makati office, Makati would have been entitled to share with LHC's power plant sites in the 70% portion of the business tax if it could be shown that the Makati office was a project office of LHC akin to a factory. The enumeration itself — factory, project office, plant, or plantation — reveals the character of the office contemplated by the provision. These are offices directly involved in production or operations; hence, the inescapable conclusion that LHC's Makati office was a mere administrative office.

What constitutes a project office in relation to the rules on business tax situs was central to the tax court's resolution of the controversy. It was not reversible error for it to set aside the trial court's erroneous conclusion. The RTC made a conclusion of fact based on loose reference to the Makati office as a project office in various communications and in LHC's pleadings, as well as prior treatment of it as a project office. These are immaterial, given LHC's willingness to pay the

[30] *Supra* note 5.

Supreme Court E-Library



business tax in full to any or all of the claimants. The obligation to pay taxes is one that arises from law and not from agreement or acquiescence of the parties or contending claimants. The mere label of a project office does not convert a mere administrative office into one, if the term is used in such a way that carries tax implications. The question was submitted to the tax court, which ruled on the matter based on its technical expertise. We find no reversible error in its application of the laws and rules within its competence.

Finally, we concur that Bakun and Alilem share a commonality of interest in the case. The fact that only Bakun appealed from the RTC's decision in the interpleader case does not preclude Alilem from benefiting in a judgment favoring Bakun. The site of LHC's hydroelectric power plant straddles both Alilem and Bakun, and the controversy involved the same question of law. When a party's right is inseparable with another who did not appeal a judgment, *Maricalum Mining Corporation v. Remington Industrial Sales Corporation*[31] stated it succinctly:

> Indeed, one party's appeal from a judgment will not inure to the benefit of a co-party who failed to appeal; and as against the latter, the judgment will continue to run its course until it becomes final and executory. To this general rule, however, one exception stands out: where both parties have a commonality of interests, the appeal of one is deemed to be the vicarious appeal of the other.[32]

To insist that a court's determination that only Bakun and Alilem are legally entitled to share in the 70% portion of the business tax from LHC, should not benefit Alilem for failing to appeal, borders on the ridiculous. If we were to rule that Alilem had lost its claim, neither Bakun nor LHC would have any greater right over the amount that would have gone to Alilem but which was consigned with the RTC. Much less would Makati have any rightful claim to it because the application of the tax situs sharing scheme over local business taxes is a matter of law, whether or not a party-claimant ceases to pursue it.

---

[31] 568 Phil. 219-220, 228 (2008).

[32] *Id.*

Supreme Court E-Library



For the foregoing reasons, we affirm the assailed CTA *En Banc* decision and resolution.

**WHEREFORE,** finding no reversible error in the January 14, 2016 Decision and the June 8, 2016 Resolution of the Court of Tax Appeals *En Banc* in CTA EB Case No. 1179, the instant petition is **DENIED**.

**SO ORDERED.**

*Peralta, C.J. (Chairperson), Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

---

**FIRST DIVISION**

[G.R. No. 225600. July 7, 2020]

**PEOPLE OF THE PHILIPPINES,** *plaintiff-appellee, vs.* **DENEL YUMOL *y* TIMPUG,** *accused-appellant.*

**SYLLABUS**

**1. CRIMINAL LAW; ROBBERY WITH RAPE; ELEMENTS. —** Robbery with Rape is a special complex crime that contemplates a situation where the accused's original intent was to take, with intent to gain, personal property belonging to another and rape is committed on the occasion thereof or as an accompanying crime. It requires the following elements: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) the robbery is accompanied by rape.

**2. ID.; ID.; INTENT TO GAIN OR *ANIMUS LUCRANDI* IS AN INTERNAL ACT AND IS PRESUMED FROM THE UNLAWFUL TAKING OF THINGS; CASE AT BAR.—** Intent to gain, or *animus lucrandi*, as an element of the crime