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SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, and *Garcia, JJ.,* concur.

EN BANC

[G.R. No. 121782. May 9, 2005]

The Honorable Secretary of Finance, *petitioner, vs.* **THE HONORABLE RICARDO M. ILARDE, Presiding Judge, Regional Trial Court, 6th Judicial Region, Branch 26, Iloilo City, and CIPRIANO P. CABALUNA, JR.,** *respondents.*

SYLLABUS

1. STATUTORY CONSTRUCTION; STATUTES; INTERPRETATION; REPEAL OF LAWS SHOULD BE MADE CLEAR AND EXPRESSED; RATIONALE.— Repeal of laws should be made clear and expressed. Repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject. Such repeals are not favored for a law cannot be deemed repealed unless it is clearly manifest that the legislature so intended it. The failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws.

2. TAXATION; P.D. NO. 464 (REAL PROPERTY TAX CODE); APPLICABLE TO ALL REAL PROPERTY TITLED TO INDIVIDUAL WHO BECAME DELINQUENT IN PAYING TAX.— P.D. No. 464 makes no distinction as to whether it is simple delinquency or other forms thereof. The Real Property Tax Code covers the wide ilk of failure to promptly pay the

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real property taxes due and demandable for a particular period. *Ubi lex non distinguit nec nos distinguere debemus.* When the law does not distinguish, we must not distinguish. Further, P.D. No. 464 covers all real property titled to individuals who become delinquents in paying real estate tax. P.D. No. 464 is a law of general application.

3. ID.; ID.; EXPRESSLY REPEALED BY REP. ACT NO. 7160 (LOCAL GOVERNMENT CODE); EFFECT THEREOF.— At bottom, the law applicable, in the case at bar, for purposes of computation of the real property taxes due from private respondent for the years 1986 to 1991, including the penalties and interests, is still Section 66 of the Real Property Tax Code of 1974 or P.D. No. 464. The penalty that ought to be imposed for delinquency in the payment of real property taxes should, therefore, be that provided for in Section 66 of P.D. No. 464, *i.e.*, two per centum on the amount of the delinquent tax for each month of delinquency or fraction thereof but "in no case shall the total penalty exceed twenty-four per centum of the delinquent tax." Accordingly, the penalties imposed by respondents City Treasurer and Assistant City Treasurer of Iloilo City on the property of private respondent are valid only up to 24% of the delinquent taxes. The excess penalties paid by the private respondent should, in view of that, be refunded by the latter. However, from 01 January 1992 onwards, the proper basis for the computation of the real property tax payable, including penalties or interests, if applicable, must be Rep. Act No. 7160, known as the Local Government Code, which took effect on the 1st of January 1992 inasmuch as Section 534 thereof had expressly repealed P.D. No. 464 or the Real Property Tax Code. Section 5(d) of Rep. Act No. 7160 provides that rights and obligations existing on the date of effectivity of the new Code and arising out of contracts or any source of prestation involving a local government unit shall be governed by the original terms and conditions of the said contracts or the law in force at the time such contracts were vested.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Enrique G. Arguelles for private respondent.

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D E C I S I O N

CHICO-NAZARIO, *J.*:

At the fulcrum in the case before Us is the constitutional question of whether or not the then Ministry of Finance could legally promulgate regulations prescribing a rate of penalty on delinquent taxes other than that provided for under Presidential Decree (P.D.) No. 464, also known as the Real Property Tax Code.

In this petition for review, petitioner Secretary of Finance seeks to reverse and set aside the Decision[1] dated 28 August 1995 rendered by respondent Judge Ricardo M. Ilarde of the Regional Trial Court (RTC), 6th Judicial Region, Branch 26, Iloilo City, in Civil Case No. 21207 for *Declaratory Relief with Damages*, declaring as null and void Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 of the Ministry (now Department) of Finance for being contrary to Section 66 of P.D. No. 464 or the Real Property Tax Code, which pegged the maximum penalty for delinquency in the payment of real estate taxes at 24% of the delinquent tax.

Private respondent Cipriano P. Cabaluna, Jr., was the Regional Director of Regional Office No. VI of the Department of Finance in Iloilo City. He co-owns with his wife certain properties, namely, Lot No. 941-D-1, Lot No. 941-D-2, and a residential house on Lot No. 942-D-1, all situated in 14 Jalandoni St., Jaro, Iloilo City. Aside from these properties, the Cabaluna spouses own Lot No. 12 (4491-E and F) and Lot No. 14 (4495-E and F), both situated in Barangay Tacas, Jaro, Iloilo City.[2]

Private respondent failed to pay the land taxes on Lot No. 12 (4491-E and F) and Lot No. 14 (4495-E and F) for the years 1986 to 1992. For the years 1991 to 1992, taxes were also unpaid on Lot No. 941-D-2, on the residential house, and on Lot No. 941-D-1.[3]

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[1] *Rollo*, pp. 29-34.

[2] *Rollo*, p. 29.

[3] *Rollo*, p. 29.

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A breakdown of the computation of the delinquent taxes and penalties, both Basic and Special Education Fund (SEF),[4] for private respondent's lots and residential house as of May 1993 as reflected in the various receipts issued by the City Treasurer's Office of Iloilo City, shows that more than twenty-four percent (24%) of the delinquent taxes were charged and collected from private respondent by way of penalties. On the 6th and 7th of May 1993, private respondent paid his land taxes and the corresponding receipts were issued to him by the City Treasurer's Office with the notation "paid under protest."

On 27 May 1993, soon after private respondent retired from his post as Regional Director of Regional Office No. VI of the Department of Finance in Iloilo City, he filed a formal letter of protest with the City Treasurer of Iloilo City[5] wherein he contends that the City Treasurer's computation of penalties was erroneous since the rate of penalty applied exceeded twenty-four percent (24%) in contravention of Section 66 of P.D. No. 464, otherwise known as the Real Property Tax Code, as amended.

In response, however, respondent Assistant City Treasurer, Rizalina F. Tulio, for and in behalf of the City Treasurer of Iloilo City, turned down private respondent's protest, citing Sec. 4(c) of Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 of the then Ministry (now Department) of Finance which reads:

Sec. 4. *Computation of Penalties on Delinquent Real Property Taxes.* —

(a) Unless condoned, wholly or partially, in a duly approved resolution of the Local Sanggunian, delinquent real property taxes

[4] SEC. 41. *An additional one per cent tax on real property for the Special Education Fund.* — There is hereby imposed an annual tax of one per cent on real property to accrue to the Special Education Fund created under Republic Act. No. 5447, which shall be in addition to the real property tax which local governments are authorized to levy, assess and collect under this Code; *Provided, however,* That when the entire total assessed valuation of real property situated in a province or city assessable to any one person does not exceed three thousand pesos, the additional one per cent tax herein imposed shall not be collected. (P.D. 464, Real Property Tax Code)

[5] *Rollo*, p. 30.

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shall be subject to penalty at the rate of two per cent (2%) for every month of delinquency, provided that the total penalty for one tax year shall not exceed twenty-four percent (24%).

(b) Failure to pay on time at least the first quarter installment of the real property tax shall constitute a waiver on the part of the property owner or administrator to avail of the privilege granted by law for him to pay without penalty his annual realty tax obligation in four (4) equal installment on or before the end of every quarter of the tax year.

Accordingly, if the portion of the real property tax due for the first quarter of tax year is not paid on or before the thirty-first day of March of the same year, the penalty shall be reckoned from the first day of January at the rate of two per cent (2%) for every month of delinquency on the basis of the total amount due for the entire year and not only on the amount due for the said first quarter of the tax year.

(c) *The penalty of two percent (2%) per month of delinquency, or twenty-four percent (24%) per annum, as the case may be, shall continue to be imposed on the unpaid tax from the time the delinquency was incurred up to the time that it is paid for in full*.[6] (Italics supplied)

Despite his labors to exhaust all administrative remedies, the denial of his protest and his motion for reconsideration compelled private respondent to file a *Petition for Declaratory Relief with Damages* on 06 July 1993 before the sala of respondent Judge, assailing Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 which, according to him, flouted Section 66 of P.D. No. 464 which fixed the maximum penalty for delinquency in the payment of real estate taxes at 24% of the delinquent tax.

On 28 August 1995, respondent Judge rendered his Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered, (1) declaring as null and void Section 4(c) of Joint Assessment Regulation No. 1-85 and Local Treasury Regulation No. 2-85 issued on August 1, 1985 by

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[6] *Rollo*, pp. 49-50.

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respondent Secretary (formerly Minister) of Finance; (2) declaring that the penalty that should be imposed for delinquency in the payment of real property taxes should be two per centum on the amount of the delinquent tax for each month of delinquency or fraction thereof, until the delinquent tax is fully paid but in no case shall the total penalty exceed twenty-four per centum of the delinquent tax as provided for in Section 66 of P.D. 464 otherwise known as the Real Property Tax Code; and (3) ordering the respondent City Treasurer of Iloilo City to refund and/or reimburse to petitioner Cipriano P. Cabaluna [Jr.] the amounts paid by the latter corresponding to the penalties on his delinquent real property taxes in excess of twenty-four percent (24%) thereof. No pronouncement as to cost.[7]

Petitioner, in this appeal, attributes the following errors to the trial court as grounds for the reversal of the assailed Decision:

I.

RESPONDENT JUDGE'S DECISION OF AUGUST 28, 1995 GRANTING PRIVATE RESPONDENT'S PRAYER FOR DECLARATORY RELIEF WAS PREMISED ON ERRONEOUS GROUNDS.

II.

RESPONDENT JUDGE ERRED WHEN HE IGNORED THE FACT THAT PRIVATE RESPONDENT WAS ESTOPPED TO QUESTION THE VALIDITY OF THE SUBJECT REGULATION WHICH HE HIMSELF UPHELD AND APPLIED TO OTHER PROPERTY OWNERS WHILE HE WAS THEN THE REGIONAL DIRECTOR OF FINANCE FOR REGION VI.[8]

The key in unlocking the present constitutional imbroglio is to address the following issues: (1) Whether or not Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 are valid; (2) What is the proper rate of penalty for delinquent real property taxes; and (3) Whether or not the penalties for delinquent real property tax imposed by petitioner on the properties of private respondent are valid.

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[7] *Rollo,* p. 34.

[8] *Rollo,* pp. 11-12.

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Petitioner claims that respondent Judge has decided questions of substance in a way not in accord with law and jurisprudence as to call for an exercise of the power of review and supervision vested in this Honorable Court.[9] Private respondent, on the other hand, assails as unconstitutional the said Joint Assessment and Local Treasury Regulations.[10]

Petitioner's standpoint is devoid of basis in law or in logic. The subject Regulations must be struck down for being repugnant to Section 66 of P.D. No. 464 or the Real Property Tax Code, which is the law prevailing at the time material to this case. Section 66 provides:

> Section 66. *Penalty for delinquency*. — Failure to pay the real property tax before the expiration of the period for the payment without penalty of the quarterly installments thereof shall subject the taxpayer to the payment of a penalty of *two per centum on the amount of the delinquent tax for each month of delinquency or fraction thereof, until the delinquent tax shall be fully paid: Provided, That in no case shall the total penalty exceed twenty-four per centum of the delinquent tax.* The rate of penalty for tax delinquency fixed herein shall be uniformly applied in all provinces and cities. (Italics supplied)

Note that under Section 66 of P.D. No. 464, the maximum penalty for delinquency in the payment of real property tax shall *in no case exceed twenty-four per centum of the delinquent tax*. Upon the other hand, Section 4(c) of the challenged Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 issued by respondent Secretary (formerly Minister) of Finance provides that "the penalty of two percent (2%) per month of delinquency or twenty-four percent (24%) *per annum* as the case may be, *shall continue to be imposed* on the unpaid tax from the time the delinquency was incurred up to the time that the delinquency is paid for in full." As adeptly observed by the trial court, the penalty imposed under the assailed Regulations has no limit inasmuch as the 24% penalty *per annum*

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[9] *Rollo*, pp. 10-11.

[10] *Rollo*, p. 155.

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shall be *continuously* imposed on the unpaid tax until it is paid for in full unlike that imposed under Section 66 of the Real Property Tax Code where the total penalty is limited only to twenty-four percent of the delinquent tax.

That such is the effect of an application of the Regulations under review is not disclaimed by the petitioner anywhere in his pleadings. Petitioner, however, attempts to justify the issued Regulations' departure from the Real Property Tax Code. Said Regulations, petitioner says, are sanctioned by Executive Order (E.O.) No. 73 and its implementing guidelines, Joint Local Assessment/Treasury Regulations No. 2-86.[11] Joint Local Assessment/Treasury Regulations No. 2-86, which provides in material parts:

> SECTION 1. Computation of Real Property Taxes. — Effective January 1, 1987 the assessed values of real properties determined by the assessors during the latest general revision of real property assessments, which ended in December 1984, shall be used as the basis for the computation of the basic and additional 1% (SEF) real property taxes.
>
> However, in order to ease the tax burden, and pursuant to the provisions of Section 97-A of the Real Property Tax Code (PD 464, as amended), increases in real property taxes arising from the 1984 new or revised assessments shall become due and collectible, in addition to the preceding year's tax, as follows:
>
> (a) in CY 1987, a maximum increase of fifty percent (50%) over the 1986 tax,
>
> (b) in CY 1988, the remaining increase in tax but not exceeding a second fifty percent (50%) increase, or a total of 100%, over the 1986 tax, and
>
> (c) in CY 1989, the remaining increase in tax shall not exceed the yearly increments originally arrived at in applying the 1984 new or revised assessment of the property subject to tax.
>
> It is understood that the herein-authorized annual increases but not exceeding a third fifty percent (50%) increase, or a total of 150%, over the 1986 tax.

[11] *Rollo*, p. 12.

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Any increase in tax in excess of the maximum authorized for CY 1989 shall no longer be collectible.

The annual 50% increase ceiling prescribed in the foregoing provisions may be availed of, however, only by taxpayers who shall meet the quarterly deadlines provided for in the Real Property Tax Code and where the subject property has no outstanding real property tax delinquency except those that are covered by Amnesty Compromise Agreements executed by and between the taxpayer and the local government pursuant to the provisions of Executive Order No. 42, dated August 22, 1986, of the President, as implemented by Joint Assessment/Treasury Regulations No. 2-86, dated August 26, 1986 of this Ministry.

In case of failure to make prompt payments, the taxpayer shall be required to pay in full the increase in tax due and demandable for the tax year as a result of the full application of the 1984 new or revised assessment of the subject property. In addition, the two percent (2%) per month penalty shall be imposed on the amount due in the manner provided for under existing regulations. (Italics supplied.)[12]

Petitioner Secretary of Finance avers in his petition that the last paragraph of Section 1, Joint Local Assessment/Treasury Regulations No. 2-86, explicitly provides for a 2% per month penalty *without any limitation as to the maximum amount thereof,* which is *entirely consistent* with the then existing Regulations, the now challenged Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85.[13] Petitioner further asserts that inasmuch as Joint Local Assessment/Treasury Regulations No. 2-86, which echoes the disputed Regulations, was issued to implement E.O. No. 73, private respondent's recourse is to file a case questioning the validity of Joint Local Assessment/Treasury Regulations No. 2-86 in the same way that he has assailed Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85.[14]

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[12] *Rollo,* pp. 16-17.

[13] *Rollo,* p. 18.

[14] *Rollo,* p. 15.

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Petitioner's reasoning is, to our mind, but a futile attempt to muddle the facts of the case and the issues involved. Recall that the present controversy cropped up when private respondent Cabaluna protested the payment of penalties on his delinquent taxes for being in excess of the 24% cap provided in P.D. No. 464 or the Real Property Tax Code. In response to his letter of protest, the Assistant Treasurer of Iloilo City justified the assessment by citing Sec. 4(c) of Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 issued by petitioner Minister (now Secretary) of Finance. This has lead to the filing of the present case by Cabaluna to question the validity of the said regulations. It is the validity of said regulations, not Joint Local Assessment/Treasury Regulations No. 2-86, that is sought to be resolved herein and petitioner should not depart from the issue on hand.

Petitioner urges this Court that inasmuch as Joint Local Assessment/Treasury Regulations No. 2-86 which was allegedly borne out of E.O. No. 73 is consistent with the Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 now under scrutiny, E.O. No. 73 had the effect of validating the latter.

The Court harbors doubts on the veracity of petitioner's contention that the Regulations at issue are sanctioned by E.O. No. 73. The underlying principle behind E.O. No. 73, as gleaned from the whereas clauses and Section 1 thereof as quoted above, is to advance the date of effectivity of the application of the Real Property Tax Values of 1984 from 01 January 1988, the original date it was intended by E.O. No. 1019 to take effect for purposes stated therein, to 01 January 1987. E.O. No. 73 did not, in any way, alter the structure of the real property tax assessments as provided for in P.D. No. 464 or the Real Property Tax Code.

Neither is this Court easily dissuaded by the submission of the Secretary of Finance that E.O. No. 73, which provides in Section 2 thereof that: "*The Minister of Finance shall promulgate the necessary rules and regulations to implement this Executive Order*," has the effect of according petitioner the blanket authority

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to tinker with the rates of penalty on delinquency taxes as provided for in P.D. No. 464, the general law on real property taxation. The Court takes notice that E.O. No. 73 did not touch at all on the topic of amendment of rates of delinquent taxes or the amendment of rates of penalty on delinquent taxes. E.O. No. 73, particularly in Section 2 thereof, has merely designated the Minister of Finance to promulgate the rules and regulations towards the implementation of E.O. No. 73, particularly on the application of the Real Property Values as of 31 December 1984, which is the general purpose for enacting said executive order.

In our mind, what is patent from the above-quoted Section 3 of E.O. No. 73 is the *repeal of E.O. No. 1019,* not Section 66 of P.D. No. 464. Said E.O. No. 1019 is known as the law "*Reorganizing the Tax Collection and Assessment Machinery in the Provinces, Municipalities, Municipalities and Cities, and Other Purpose*," which was signed into law by deposed President Ferdinand E. Marcos on 18 April 1985, reads:

> WHEREAS, there have been numerous requests from people in the provinces and towns proclaimed as calamity areas to allow them temporary respite from the payment of the increase in real property taxes;
>
> WHEREAS, *there is a resolution in the Batasang Pambansa asking the President of the Philippines to suspend the accrual of real property taxes based on the general revision of real property assessments undertaken from July 1, 1981 to June 30, 1985*;
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> x x x x x x x x x
>
> SECTION 1. The Ministry of Finance and the Ministry of Local Government shall immediately establish a more efficient tax collecting system to strengthen the present machinery in order to maximize the collection of taxes on the province, municipality or city levels;
>
> SEC. 2. For the above purpose, responsibilities now being performed by the province, municipality or city treasurers which do not pertain directly to treasury service, especially tax collection, shall be removed from said treasurers in order to enable them to concentrate on the collection of taxes.

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SEC. 3. The Ministry of Finance and the Ministry of Local Government shall likewise revise and strengthen the present tax assessment process in order to obtain a more efficient, equitable and realistic system.

SEC. 4. The present distribution of shares from real property tax revenues among the provinces and municipalities or cities namely, 45% to the province, 45% to the municipality or city, and 10 % for the *barangays*, shall be maintained. . . .

SEC. 5. *The increase in real property taxes resulting from the revised real property assessments as provided for under Section 21 of Presidential Decree No. 464, as amended by Presidential Decree No. 1621, shall be collected beginning January 1, 1988 instead of January 1, 1985 in order to enable the Ministry of Finance and the Ministry of Local Government to establish the new systems of tax collection and assessment provided herein and in order to alleviate the condition of the people, including real property owners, as a result of temporary economic difficulties.*

SEC. 6. Payments already made pursuant to the revised real property assessments shall be credited to future real property taxes due on the same property. . . . (Italics supplied)

Neither did E.O. No. 1019 directly or indirectly vest upon the Department of Finance the right to fiddle with the rates of penalty to be assessed on delinquency taxes as contained in the Real Property Tax Code. Even assuming that E.O. No. 1019 had vested the then Ministry of Finance with the authority to impose new rates of penalty on delinquency taxes, as petitioner would have us believe, such authority would have been automatically stripped off from it upon the express repeal of E.O. No. 1019 by E.O. No. 73 on the 25th of November 1986.

Despite the promulgation of E.O. No. 73, P.D. No. 464 in general and Section 66 in particular, remained to be good law. To accept petitioner's premise that E.O. No. 73 had accorded the Ministry of Finance the authority to alter, increase, or modify the tax structure would be tantamount to saying that E.O. No. 73 has repealed or amended P.D. No. 464. Repeal of laws should be made clear and expressed. Repeals by implication

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are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject. Such repeals are not favored for a law cannot be deemed repealed unless it is clearly manifest that the legislature so intended it.[15] The failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws. We find, as the trial court has found, no such inconsistency or repugnancy between E.O. No. 73 and Section 66 of P.D. No. 464. Jurisprudence thrives to the effect that it is only Republic Act No. 7160 or the Local Government Code of 1991, which repealed the Real Property Tax Code or P.D. No. 464.[16]

Assuming argumenti that E.O. No. 73 has authorized the petitioner to issue the objected Regulations, such conferment of powers is void for being repugnant to the well-encrusted doctrine in political law that the power of taxation is generally vested with the legislature.[17] Yes, President Corazon Aquino, at that time, was exercising both executive and legislative powers. But, the power delegated to the executive branch, in this case the Ministry of Finance, to lay down implementing rules must, nevertheless, be germane to the general law it seeks to apply. The implementing rules cannot add to or detract from the provisions of the law it is designed to implement.[18] Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law they are intended to carry into effect,[19] which in this case is

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[15] *Recaña, Jr. v. Court of Appeals*, G.R. No. 123850, 05 January 2001, 349 SCRA 24.

[16] *National Power Corp. v. Province of Lanao del Sur*, G.R. No. 96700, 19 November 1996, 264 SCRA 271; *Ty v. Trampe*, G.R. No. 117577, 01 December 1995, 250 SCRA 500.

[17] Cruz, *Philippine Political Law*, p. 179 (1998 ed.).

[18] *Cebu Oxygen and Acetylene Co., Inc. v. Drilon*, G.R. No. 82849, 02 August 1989, 176 SCRA 24.

[19] *Boie-Takeda Chemicals, Inc. v. De La Serna*, G.R. No. 92174, 10 December 1993, 228 SCRA 329, 340.

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merely to antedate the effectivity of the 1984 Real Property Tax values inasmuch as this is the *raison d'être* of E.O. No. 73.

In a last-ditch effort to salvage the impugned Regulations, petitioner pushes on that Joint Local Assessment/Treasury Regulations No. 2-86, or the so-called implementing rules of E.O. No. 73, is not contrary to Section 66 of P.D. No. 464 inasmuch as the latter applies merely to simple delinquency in the payment of real property taxes while the former covers cases wherein there was failure to promptly pay the real property tax due, including the increase in tax due and demandable for the tax year as a result of the application of the 1984 New or Revised Assessment of the value of the subject property.[20]

Such rationalization lacks legal traction. P.D. No. 464 makes no distinction as to whether it is simple delinquency or other forms thereof. The Real Property Tax Code covers the wide ilk of failure to promptly pay the real property taxes due and demandable for a particular period. *Ubi lex non distinguit nec nos distinguere debemus*. When the law does not distinguish, we must not distinguish. Further, P.D. No. 464 covers all real property titled to individuals who become delinquents in paying real estate tax. P.D. No. 464 is a law of general application.[21]

On the second assigned error, the fact that private respondent Cabaluna was responsible for the issuance and implementation of Regional Office Memorandum Circular No. 04-89 which implemented Joint Assessment Regulations No. 1-85 and Local Treasury Regulations No. 2-85 does not put him in estoppel from seeking the nullification of said Regulations at this point. As adroitly elucidated by the trial court —

> That petitioner had previously endorsed implementation of subject regulations is of no moment. For he did so then in his capacity as the Regional Director of Regional Office No. VI of the Department of Finance in Iloilo City. As such Regional Director, he was a subordinate of the Secretary of Finance so that he was duty bound

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[20] *Rollo*, p. 19.

[21] *Recaña, Jr. v. Court of Appeals, supra*, note 15.

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to implement subject regulations. Petitioner had no alternative but to carry out the orders and issuances of his superior.

In the case at bar, however, petitioner is suing as a plain taxpayer, he having already retired as Regional Director. His official acts as Regional Director could not have stripped him of his rights as a taxpayer. To be sure, the official acts of petitioner as Regional Director cannot serve as estoppel for him to pursue the present course of action that he has taken as a taxpayer.

In any event, a regulation which is in itself invalid for being contrary to law cannot be validated by any act of endorsement of any official, much less, by a subordinate of the official who issued such regulation. Estoppel, certainly, cannot make an invalid regulation valid.[22]

At bottom, the law applicable, in the case at bar, for purposes of computation of the real property taxes due from private respondent for the years 1986 to 1991, including the penalties and interests, is still Section 66 of the Real Property Tax Code of 1974 or P.D. No. 464. The penalty that ought to be imposed for delinquency in the payment of real property taxes should, therefore, be that provided for in Section 66 of P.D. No. 464, *i.e.*, two per centum on the amount of the delinquent tax for each month of delinquency or fraction thereof but "in no case shall the total penalty exceed twenty-four per centum of the delinquent tax."

Accordingly, the penalties imposed by respondents City Treasurer and Assistant City Treasurer of Iloilo City on the property of private respondent are valid only up to 24% of the delinquent taxes. The excess penalties paid by the private respondent should, in view of that, be refunded by the latter.

However, from 01 January 1992 onwards, the proper basis for the computation of the real property tax payable, including penalties or interests, if applicable, must be Rep. Act No. 7160, known as the Local Government Code, which took effect on

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[22] *Rollo*, p. 33.

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the 1st of January 1992[23] inasmuch as Section 534[24] thereof had expressly repealed P.D. No. 464 or the Real Property Tax Code. Section 5(d) of Rep. Act No. 7160 provides that rights and obligations existing on the date of effectivity of the new Code and arising out of contracts or any source of prestation involving a local government unit shall be governed by the original terms and conditions of the said contracts or the law in force at the time such contracts were vested.

WHEREFORE, the instant petition is hereby *DENIED* and the order dated 28 August 1995 in Civil Case No. 21207 rendered by respondent Judge Ricardo M. Ilarde of the Regional Trial Court, 6th Judicial Region, Branch 26, Iloilo City, is hereby *AFFIRMED with MODIFICATION* that the real property tax payable by private respondent Cipriano P. Cabaluna, Jr., for the year 1992 shall be based on the Local Government Code of 1991. No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, and *Garcia, JJ.,* concur.

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[23] SECTION 536. *Effectivity Clause.* — This Code shall take effect on January first, nineteen hundred ninety-two, unless otherwise provided herein, after its complete publication in at least one (1) newspaper of general circulation. (Local Government Code)

[24] SECTION 534. Repealing Clause. — . . .

(c) The provisions of Sections 2, 3, and 4 of Republic Act No. 1939 regarding hospital fund; Section 3, a(3) and b(2) of Republic Act No. 5447 regarding the Special Education Fund; Presidential Decree No. 144 as amended by Presidential Decree Nos. 559 and 1741; Presidential Decree No. 231 as amended; Presidential Decree No. 436 as amended by Presidential Decree No. 558; and Presidential Decree Nos. 381, 436, 464, 477, 526, 632, 752, and 1136 are hereby repealed and rendered of no force and effect. (Italics supplied.)