

SECOND DIVISION

[G.R. No. 184203, November 26, 2014]

**CITY OF LAPU-LAPU, PETITIONER, VS. PHILIPPINE ECONOMIC
ZONE AUTHORITY, RESPONDENT.**

[G.R. NO. 187583]

**PROVINCE OF BATAAN, REPRESENTED BY GOVERNOR ENRIQUE
T. GARCIA, JR., AND EMERLINDA S. TALENTO, IN HER CAPACITY
AS PROVINCIAL TREASURER OF BATAAN, PETITIONERS, VS.
PHILIPPINE ECONOMIC ZONE AUTHORITY, RESPONDENT.**

D E C I S I O N

LEONEN, J.:

The Philippine Economic Zone Authority is exempt from payment of real property taxes.

These are consolidated^[1] petitions for review on certiorari the City of Lapu-Lapu and the Province of Bataan separately filed against the Philippine Economic Zone Authority (PEZA).

In G.R. No. 184203, the City of Lapu-Lapu (the City) assails the Court of Appeals' decision^[2] dated January 11, 2008 and resolution^[3] dated August 6, 2008, dismissing the City's appeal for being the wrong mode of appeal. The City appealed the Regional Trial Court, Branch 111, Pasay City's decision finding the PEZA exempt from payment of real property taxes.

In G.R. No. 187583, the Province of Bataan (the Province) assails the Court of Appeals' decision^[4] dated August 27, 2008 and resolution^[5] dated April 16, 2009, granting the PEZA's petition for certiorari. The Court of Appeals ruled that the Regional Trial Court, Branch 115, Pasay City gravely abused its discretion in finding the PEZA liable for real property taxes to the Province of Bataan.

Facts common to the consolidated petitions

In the exercise of his legislative powers,^[6] President Ferdinand E. Marcos issued Presidential Decree No. 66 in 1972, declaring as government policy the establishment of export processing zones in strategic locations in the Philippines. Presidential Decree No. 66 aimed "to encourage and promote foreign commerce as a means of making the Philippines a center of international trade, of strengthening our export trade and foreign exchange position, of hastening industrialization, of reducing domestic unemployment, and of accelerating the development of the country."^[7]

To carry out this policy, the Export Processing Zone Authority (EPZA) was created to operate, administer, and manage the export processing zones established in the Port of Mariveles, Bataan^[8] and such other export processing zones that may be created by virtue of the decree.^[9]

The decree declared the EPZA non-profit in character^[10] with all its revenues devoted to its development, improvement, and maintenance.^[11] To maintain this non-profit character, the EPZA was declared exempt from all taxes that may be due to the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities.^[12] Specifically, Section 21 of Presidential Decree No. 66 declared the EPZA exempt from payment of real property taxes:

Section 21. Non-profit Character of the Authority; Exemption from Taxes.
The Authority shall be non-profit and shall devote and use all its returns from its capital investment, as well as excess revenues from its operations, for the development, improvement and maintenance and other related expenditures of the Authority to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section 1 of this Decree. In consonance therewith, the Authority is hereby declared exempt:

. . . .

(b) From all income taxes, franchise taxes, realty taxes and all other kinds of taxes and licenses to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities[.]

In 1979, President Marcos issued Proclamation No. 1811, establishing the Mactan Export Processing Zone. Certain parcels of land of the public domain located in the City of Lapu-Lapu in Mactan, Cebu were reserved to serve as site of the Mactan Export Processing Zone.

In 1995, the PEZA was created by virtue of Republic Act No. 7916 or "the Special Economic Zone Act of 1995"^[13] to operate, administer, manage, and develop economic zones in the country.^[14] The PEZA was granted the power to register, regulate, and supervise the enterprises located in the economic zones.^[15] By virtue of the law, the export processing zone in Mariveles, Bataan became the Bataan Economic Zone^[16] and the Mactan Export Processing Zone the Mactan Economic Zone.^[17]

As for the EPZA, the law required it to "evolve into the PEZA in accordance with the guidelines and regulations set forth in an executive order issued for [the] purpose."^[18]

On October 30, 1995, President Fidel V. Ramos issued Executive Order No. 282, directing the PEZA to assume and exercise all of the EPZA's powers, functions, and

responsibilities “as provided in Presidential Decree No. 66, as amended, insofar as they are not inconsistent with the powers, functions, and responsibilities of the PEZA, as mandated under [the Special Economic Zone Act of 1995].”^[19] All of EPZA’s properties, equipment, and assets, among others, were ordered transferred to the PEZA.^[20]

Facts of G.R. No. 184203

In the letter^[21] dated March 25, 1998, the City of Lapu-Lapu, through the Office of the Treasurer, demanded from the PEZA ₱32,912,350.08 in real property taxes for the period from 1992 to 1998 on the PEZA’s properties located in the Mactan Economic Zone.

The City reiterated its demand in the letter^[22] dated May 21, 1998. It cited Sections 193 and 234 of the Local Government Code of 1991 that withdrew the real property tax exemptions previously granted to or presently enjoyed by all persons. The City pointed out that no provision in the Special Economic Zone Act of 1995 specifically exempted the PEZA from payment of real property taxes, unlike Section 21 of Presidential Decree No. 66 that explicitly provided for EPZA’s exemption. Since no legal provision explicitly exempted the PEZA from payment of real property taxes, the City argued that it can tax the PEZA.

The City made subsequent demands^[23] on the PEZA. In its last reminder^[24] dated May 13, 2002, the City assessed the PEZA ₱86,843,503.48 as real property taxes for the period from 1992 to 2002.

On September 11, 2002, the PEZA filed a petition for declaratory relief^[25] with the Regional Trial Court of Pasay City, praying that the trial court declare it exempt from payment of real property taxes. The case was raffled to Branch 111.

The City answered^[26] the petition, maintaining that the PEZA is liable for real property taxes. To support its argument, the City cited a legal opinion dated September 6, 1999 issued by the Department of Justice,^[27] which stated that the PEZA is not exempt from payment of real property taxes. The Department of Justice based its opinion on Sections 193 and 234 of the Local Government Code that withdrew the tax exemptions, including real property tax exemptions, previously granted to all persons.

A reply^[28] was filed by the PEZA to which the City filed a rejoinder.^[29]

Pursuant to Rule 63, Section 3 of Rules of Court,^[30] the Office of the Solicitor General filed a comment^[31] on the PEZA’s petition for declaratory relief. It agreed that the PEZA is exempt from payment of real property taxes, citing Sections 24 and 51 of the Special Economic Zone Act of 1995.

The trial court agreed with the Solicitor General. Section 24 of the Special Economic Zone Act of 1995 provides:

SEC. 24. Exemption from National and Local Taxes. – Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:

- a. Three percent (3%) to the National Government;
- b. Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

Section 51 of the law, on the other hand, provides:

SEC. 51. Ipso-Facto Clause. – All privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act No. 7227, shall ipso-facto be accorded to special economic zones already created or to be created under this Act. The free port status shall not be vested upon new special economic zones.

Based on Section 51, the trial court held that all privileges, benefits, advantages, or exemptions granted to special economic zones created under the Bases Conversion and Development Act of 1992 apply to special economic zones created under the Special Economic Zone Act of 1995. Since these benefits include exemption from payment of national or local taxes, these benefits apply to special economic zones owned by the PEZA.

According to the trial court, the PEZA remained tax-exempt regardless of Section 24 of the Special Economic Zone Act of 1995. It ruled that Section 24, which taxes real property owned by developers of economic zones, only applies to private developers of economic zones, not to public developers like the PEZA. The PEZA, therefore, is not liable for real property taxes on the land it owns.

Characterizing the PEZA as an agency of the National Government, the trial court ruled that the City had no authority to tax the PEZA under Sections 133(o) and 234(a) of the Local Government Code of 1991.

In the resolution^[32] dated June 14, 2006, the trial court granted the PEZA's petition for declaratory relief and declared it exempt from payment of real property taxes.

The City filed a motion for reconsideration,^[33] which the trial court denied in its resolution^[34] dated September 26, 2006.

The City then appealed^[35] to the Court of Appeals.

The Court of Appeals noted the following issues the City raised in its appellant's brief: (1) whether the trial court had jurisdiction over the PEZA's petition for declaratory relief; (2) whether the PEZA is a government agency performing

governmental functions; and (3) whether the PEZA is exempt from payment of real property taxes.

The issues presented by the City, according to the Court of Appeals, are pure questions of law which should have been raised in a petition for review on certiorari directly filed before this court. Since the City availed itself of the wrong mode of appeal, the Court of Appeals dismissed the City's appeal in the decision^[36] dated January 11, 2008.

The City filed a motion for extension of time to file a motion for reconsideration,^[37] which the Court of Appeals denied in the resolution^[38] dated April 11, 2008.

Despite the denial of its motion for extension, the City filed a motion for reconsideration.^[39] In the resolution^[40] dated August 6, 2008, the Court of Appeals denied that motion.

In its petition for review on certiorari with this court,^[41] the City argues that the Court of Appeals "hid under the skirts of technical rules"^[42] in resolving its appeal. The City maintains that its appeal involved mixed questions of fact and law. According to the City, whether the PEZA performed governmental functions "cannot completely be addressed by law but [by] the factual and actual activities [the PEZA is] carrying out."^[43]

Even assuming that the petition involves pure questions of law, the City contends that the subject matter of the case "is of extreme importance with [far-reaching] consequence that [its magnitude] would surely shape and determine the course of our nation's future."^[44] The Court of Appeals, the City argues, should have resolved the case on the merits.

The City insists that the trial court had no jurisdiction to hear the PEZA's petition for declaratory relief. According to the City, the case involves real property located in the City of Lapu-Lapu. The petition for declaratory relief should have been filed before the Regional Trial Court of the City of Lapu-Lapu.^[45]

Moreover, the Province of Bataan, the City of Baguio, and the Province of Cavite allegedly demanded real property taxes from the PEZA. The City argues that the PEZA should have likewise impleaded these local government units as respondents in its petition for declaratory relief. For its failure to do so, the PEZA violated Rule 63, Section 2 of the Rules of Court, and the trial court should have dismissed the petition.^[46]

This court ordered the PEZA to comment on the City's petition for review on certiorari.^[47]

At the outset of its comment, the PEZA argues that the Court of Appeals' decision dated January 11, 2008 had become final and executory. After the Court of Appeals had denied the City's appeal, the City filed a motion for extension of time to file a motion for reconsideration. Arguing that the time to file a motion for reconsideration is not extendible, the PEZA filed its motion for reconsideration out of