

SECOND DIVISION

[G.R. No. 178030, December 15, 2010]

**PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY (PFDA),
PETITIONER, VS. CENTRAL BOARD OF ASSESSMENT APPEALS,
LOCAL BOARD OF ASSESSMENT APPEALS OF LUCENA CITY, CITY
OF LUCENA, LUCENA CITY ASSESSOR AND LUCENA CITY
TREASURER, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

This petition for review^[1] assails the 9 May 2007 Decision^[2] of the Court of Tax Appeals in C.T.A. EB No. 193, affirming the 5 October 2005 Decision of the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-33. The CBAA dismissed the appeal of petitioner Philippine Fisheries Development Authority (PFDA) from the Decision of the Local Board of Assessment Appeals (LBAA) of Lucena City, ordering PFDA to pay the real property taxes imposed by the City Government of Lucena on the Lucena Fishing Port Complex.

The Facts

The facts as found by the CBAA are as follows:

The records show that the Lucena Fishing Port Complex (LFPC) is one of the fishery infrastructure projects undertaken by the National Government under the Nationwide Fish Port-Package. Located at Barangay Dalahican, Lucena City, the fish port was constructed on a reclaimed land with an area of 8.7 hectares more or less, at a total cost of PHP 296,764,618.77 financed through a loan (L/A PH-25 and 51) from the Overseas Economic Cooperation Fund (OECF) of Japan, dated November 9, 1978 and May 31, 1978, respectively.

The Philippine Fisheries Development Authority (PFDA) was created by virtue of P.D. 977 as amended by E.O. 772, with functions and powers to (m)anage, operate, and develop the Navotas Fishing Port Complex and such other fishing port complexes that may be established by the Authority. Pursuant thereto, Petitioner-Appellant PFDA took over the management and operation of LFPC in February 1992.

On October 26, 1999, in a letter addressed to PFDA, the City Government of Lucena demanded payment of realty taxes on the LFPC property for the period from 1993 to 1999 in the total amount of P39,397,880.00.

This was received by PFDA on November 24, 1999.

On October 17, 2000 another demand letter was sent by the Government of Lucena City on the same LFPC property, this time in the amount of P45,660,080.00 covering the period from 1993 to 2000.

On December 18, 2000 Petitioner-Appellant filed its Appeal before the Local Board of Assessment Appeals of Lucena City, which was dismissed for lack of merit. On November 6, 2001 Petitioner-Appellant filed its motion for reconsideration; this was denied by the Appellee Local Board on December 10, 2001.^[3]

PFDA appealed to the CBAA. In its Decision dated 5 October 2005, the CBAA dismissed the appeal for lack of merit. The CBAA ruled:

Ownership of LFPC however has, before hand, been handed over to the PFDA, as provided for under Sec. 11 of P.D. No. 977, as amended, and declared under the MCIAA case [*Mactan Cebu International Airport Authority v. Marcos*, G.R. No. 120082, 11 September 1996, 261 SCRA 667]. The allegations therefore that PFDA is not the beneficial user of LFPC and not a taxable person are rendered moot and academic by such ownership of PFDA over LFPC.

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PFDA's Charter, P.D. 977, provided for exemption from income tax under Par. 2, Sec. 10 thereof: "(t)he Authority shall be exempted from the payment of income tax". Nothing was said however about PFDA's exemption from payment of real property tax: PFDA therefore was not to lay claim for realty tax exemption on its Fishing Port Complexes. Reading Sec. 40 of P.D. 464 and Sec. 234 of R.A. 7160 however, provided such ground: LFPC is owned by the Republic of the Philippines, PFDA is only tasked to manage, operate, and develop the same. Hence, LFPC is exempted from payment of realty tax.

x x x

The ownership of LFPC as passed on by the Republic of the Philippines to PFDA is borne by Direct evidence: P.D. 977, as amended (*supra*). Therefore, Petitioner-Appellant's claim for realty tax exemption on LFPC is untenable.

WHEREFORE, for all of the foregoing, the herein Appeal is hereby dismissed for lack of merit.

SO ORDERED.^[4]

PFDA moved for reconsideration, which the CBAA denied in its Resolution dated 7

June 2006.^[5] On appeal, the Court of Tax Appeals denied PFDA's petition for review and affirmed the 5 October 2005 Decision of the CBAA.

Hence, this petition for review.

The Ruling of the Court of Tax Appeals

The Court of Tax Appeals held that PFDA is a government-owned or controlled corporation, and is therefore subject to the real property tax imposed by local government units pursuant to Section 232 in relation to Sections 193 and 234 of the Local Government Code. Furthermore, the Court of Tax Appeals ruled that PFDA failed to prove that it is exempt from real property tax pursuant to Section 234 of the Local Government Code or any of its provisions.

The Issue

The sole issue raised in this petition is whether PFDA is liable for the real property tax assessed on the Lucena Fishing Port Complex.

The Ruling of the Court

The petition is meritorious.

In ruling that PFDA is not exempt from paying real property tax, the Court of Tax Appeals cited Sections 193, 232, and 234 of the Local Government Code which read:

Section 193. *Withdrawal of Tax Exemption Privileges.* ‘ Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or -controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

Section 232. *Power to Levy Real Property Tax.* ‘ A province or city or a municipality within the Metropolitan Manila Area may levy an annual *ad valorem* tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.

Section 234. *Exemptions from Real Property Tax.* ‘ The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivision except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;