

## EN BANC

[ G.R. No. 144104, June 29, 2004 ]

**LUNG CENTER OF THE PHILIPPINES, PETITIONER, VS. QUEZON CITY AND CONSTANTINO P. ROSAS, IN HIS CAPACITY AS CITY ASSESSOR OF QUEZON CITY, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, of the Decision<sup>[1]</sup> dated July 17, 2000 of the Court of Appeals in CA-G.R. SP No. 57014 which affirmed the decision of the Central Board of Assessment Appeals holding that the lot owned by the petitioner and its hospital building constructed thereon are subject to assessment for purposes of real property tax.

#### The Antecedents

The petitioner Lung Center of the Philippines is a non-stock and non-profit entity established on January 16, 1981 by virtue of Presidential Decree No. 1823.<sup>[2]</sup> It is the registered owner of a parcel of land, particularly described as Lot No. RP-3-B-3A-1-B-1, SWO-04-000495, located at Quezon Avenue corner Elliptical Road, Central District, Quezon City. The lot has an area of 121,463 square meters and is covered by Transfer Certificate of Title (TCT) No. 261320 of the Registry of Deeds of Quezon City. Erected in the middle of the aforesaid lot is a hospital known as the Lung Center of the Philippines. A big space at the ground floor is being leased to private parties, for canteen and small store spaces, and to medical or professional practitioners who use the same as their private clinics for their patients whom they charge for their professional services. Almost one-half of the entire area on the left side of the building along Quezon Avenue is vacant and idle, while a big portion on the right side, at the corner of Quezon Avenue and Elliptical Road, is being leased for commercial purposes to a private enterprise known as the Elliptical Orchids and Garden Center.

The petitioner accepts paying and non-paying patients. It also renders medical services to out-patients, both paying and non-paying. Aside from its income from paying patients, the petitioner receives annual subsidies from the government.

On June 7, 1993, both the land and the hospital building of the petitioner were assessed for real property taxes in the amount of P4,554,860 by the City Assessor of Quezon City.<sup>[3]</sup> Accordingly, Tax Declaration Nos. C-021-01226 (16-2518) and C-021-01231 (15-2518-A) were issued for the land and the hospital building, respectively.<sup>[4]</sup> On August 25, 1993, the petitioner filed a Claim for Exemption<sup>[5]</sup> from real property taxes with the City Assessor, predicated on its claim that it is a charitable institution. The petitioner's request was denied, and a petition was, thereafter, filed before the Local Board of Assessment Appeals of Quezon City (QC-

LBAA, for brevity) for the reversal of the resolution of the City Assessor. The petitioner alleged that under Section 28, paragraph 3 of the 1987 Constitution, the property is exempt from real property taxes. It averred that a minimum of 60% of its hospital beds are exclusively used for charity patients and that the major thrust of its hospital operation is to serve charity patients. The petitioner contends that it is a charitable institution and, as such, is exempt from real property taxes. The QC-LBAA rendered judgment dismissing the petition and holding the petitioner liable for real property taxes.<sup>[6]</sup>

The QC-LBAA's decision was, likewise, affirmed on appeal by the Central Board of Assessment Appeals of Quezon City (CBAA, for brevity)<sup>[7]</sup> which ruled that the petitioner was not a charitable institution and that its real properties were not actually, directly and exclusively used for charitable purposes; hence, it was not entitled to real property tax exemption under the constitution and the law. The petitioner sought relief from the Court of Appeals, which rendered judgment affirming the decision of the CBAA.<sup>[8]</sup>

Undaunted, the petitioner filed its petition in this Court contending that:

- A. THE COURT A QUO ERRED IN DECLARING PETITIONER AS NOT ENTITLED TO REALTY TAX EXEMPTIONS ON THE GROUND THAT ITS LAND, BUILDING AND IMPROVEMENTS, SUBJECT OF ASSESSMENT, ARE NOT ACTUALLY, DIRECTLY AND EXCLUSIVELY DEVOTED FOR CHARITABLE PURPOSES.
- B. WHILE PETITIONER IS NOT DECLARED AS REAL PROPERTY TAX EXEMPT UNDER ITS CHARTER, PD 1823, SAID EXEMPTION MAY NEVERTHELESS BE EXTENDED UPON PROPER APPLICATION.

The petitioner avers that it is a charitable institution within the context of Section 28(3), Article VI of the 1987 Constitution. It asserts that its character as a charitable institution is not altered by the fact that it admits paying patients and renders medical services to them, leases portions of the land to private parties, and rents out portions of the hospital to private medical practitioners from which it derives income to be used for operational expenses. The petitioner points out that for the years 1995 to 1999, 100% of its out-patients were charity patients and of the hospital's 282-bed capacity, 60% thereof, or 170 beds, is allotted to charity patients. It asserts that the fact that it receives subsidies from the government attests to its character as a charitable institution. It contends that the "exclusivity" required in the Constitution does not necessarily mean "solely." Hence, even if a portion of its real estate is leased out to private individuals from whom it derives income, it does not lose its character as a charitable institution, and its exemption from the payment of real estate taxes on its real property. The petitioner cited our ruling in *Herrera v. QC-BAA*<sup>[9]</sup> to bolster its pose. The petitioner further contends that even if P.D. No. 1823 does not exempt it from the payment of real estate taxes, it is not precluded from seeking tax exemption under the 1987 Constitution.

In their comment on the petition, the respondents aver that the petitioner is not a charitable entity. The petitioner's real property is not exempt from the payment of real estate taxes under P.D. No. 1823 and even under the 1987 Constitution because it failed to prove that it is a charitable institution and that the said property is actually, directly and exclusively used for charitable purposes. The respondents

noted that in a newspaper report, it appears that graft charges were filed with the Sandiganbayan against the director of the petitioner, its administrative officer, and Zenaida Rivera, the proprietress of the Elliptical Orchids and Garden Center, for entering into a lease contract over 7,663.13 square meters of the property in 1990 for only P20,000 a month, when the monthly rental should be P357,000 a month as determined by the Commission on Audit; and that instead of complying with the directive of the COA for the cancellation of the contract for being grossly prejudicial to the government, the petitioner renewed the same on March 13, 1995 for a monthly rental of only P24,000. They assert that the petitioner uses the subsidies granted by the government for charity patients and uses the rest of its income from the property for the benefit of paying patients, among other purposes. They aver that the petitioner failed to adduce substantial evidence that 100% of its out-patients and 170 beds in the hospital are reserved for indigent patients. The respondents further assert, thus:

13. That the claims/allegations of the Petitioner LCP do not speak well of its record of service. That before a patient is admitted for treatment in the Center, first impression is that it is pay-patient and required to pay a certain amount as deposit. That even if a patient is living below the poverty line, he is charged with high hospital bills. And, without these bills being first settled, the poor patient cannot be allowed to leave the hospital or be discharged without first paying the hospital bills or issue a promissory note guaranteed and indorsed by an influential agency or person known only to the Center; that even the remains of deceased poor patients suffered the same fate. Moreover, before a patient is admitted for treatment as free or charity patient, one must undergo a series of interviews and must submit all the requirements needed by the Center, usually accompanied by endorsement by an influential agency or person known only to the Center. These facts were heard and admitted by the Petitioner LCP during the hearings before the Honorable QC-BAA and Honorable CBAA. These are the reasons of indigent patients, instead of seeking treatment with the Center, they prefer to be treated at the Quezon Institute. Can such practice by the Center be called charitable?<sup>[10]</sup>

### The Issues

The issues for resolution are the following: (a) whether the petitioner is a charitable institution within the context of Presidential Decree No. 1823 and the 1973 and 1987 Constitutions and Section 234(b) of Republic Act No. 7160; and (b) whether the real properties of the petitioner are exempt from real property taxes.

### The Court's Ruling

The petition is partially granted.

On the first issue, we hold that the petitioner is a charitable institution within the context of the 1973 and 1987 Constitutions. To determine whether an enterprise is a charitable institution/entity or not, the elements which should be considered include the statute creating the enterprise, its corporate purposes, its constitution and by-laws, the methods of administration, the nature of the actual work performed, the

character of the services rendered, the indefiniteness of the beneficiaries, and the use and occupation of the properties.<sup>[11]</sup>

In the legal sense, a charity may be fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds and hearts under the influence of education or religion, by assisting them to establish themselves in life or otherwise lessening the burden of government.<sup>[12]</sup> It may be applied to almost anything that tend to promote the well-doing and well-being of social man. It embraces the improvement and promotion of the happiness of man.<sup>[13]</sup> The word "charitable" is not restricted to relief of the poor or sick.<sup>[14]</sup> The test of a charity and a charitable organization are in law the same. The test whether an enterprise is charitable or not is whether it exists to carry out a purpose reorganized in law as charitable or whether it is maintained for gain, profit, or private advantage.

Under P.D. No. 1823, the petitioner is a non-profit and non-stock corporation which, subject to the provisions of the decree, is to be administered by the Office of the President of the Philippines with the Ministry of Health and the Ministry of Human Settlements. It was organized for the welfare and benefit of the Filipino people principally to help combat the high incidence of lung and pulmonary diseases in the Philippines. The *raison d'être* for the creation of the petitioner is stated in the decree, *viz*:

Whereas, for decades, respiratory diseases have been a priority concern, having been the leading cause of illness and death in the Philippines, comprising more than 45% of the total annual deaths from all causes, thus, exacting a tremendous toll on human resources, which ailments are likely to increase and degenerate into serious lung diseases on account of unabated pollution, industrialization and unchecked cigarette smoking in the country;

Whereas, the more common lung diseases are, to a great extent, preventable, and curable with early and adequate medical care, immunization and through prompt and intensive prevention and health education programs;

Whereas, there is an urgent need to consolidate and reinforce existing programs, strategies and efforts at preventing, treating and rehabilitating people affected by lung diseases, and to undertake research and training on the cure and prevention of lung diseases, through a Lung Center which will house and nurture the above and related activities and provide tertiary-level care for more difficult and problematical cases;

Whereas, to achieve this purpose, the Government intends to provide material and financial support towards the establishment and maintenance of a Lung Center for the welfare and benefit of the Filipino people.<sup>[15]</sup>

The purposes for which the petitioner was created are spelled out in its Articles of Incorporation, thus:

SECOND: That the purposes for which such corporation is formed are as follows:

1. To construct, establish, equip, maintain, administer and conduct an integrated medical institution which shall specialize in the treatment, care, rehabilitation and/or relief of lung and allied diseases in line with the concern of the government to assist and provide material and financial support in the establishment and maintenance of a lung center primarily to benefit the people of the Philippines and in pursuance of the policy of the State to secure the well-being of the people by providing them specialized health and medical services and by minimizing the incidence of lung diseases in the country and elsewhere.
2. To promote the noble undertaking of scientific research related to the prevention of lung or pulmonary ailments and the care of lung patients, including the holding of a series of relevant congresses, conventions, seminars and conferences;
3. To stimulate and, whenever possible, underwrite scientific researches on the biological, demographic, social, economic, eugenic and physiological aspects of lung or pulmonary diseases and their control; and to collect and publish the findings of such research for public consumption;
4. To facilitate the dissemination of ideas and public acceptance of information on lung consciousness or awareness, and the development of fact-finding, information and reporting facilities for and in aid of the general purposes or objects aforesaid, especially in human lung requirements, general health and physical fitness, and other relevant or related fields;
5. To encourage the training of physicians, nurses, health officers, social workers and medical and technical personnel in the practical and scientific implementation of services to lung patients;
6. To assist universities and research institutions in their studies about lung diseases, to encourage advanced training in matters of the lung and related fields and to support educational programs of value to general health;
7. To encourage the formation of other organizations on the national, provincial and/or city and local levels; and to coordinate their various efforts and activities for the purpose of achieving a more effective programmatic approach on the common problems relative to the objectives enumerated herein;
8. To seek and obtain assistance in any form from both international and local foundations and organizations; and to administer grants and funds that may be given to the organization;