

## THIRD DIVISION

[ G.R. No. 146382, August 07, 2003 ]

**SYSTEMS PLUS COMPUTER COLLEGE OF CALOOCAN CITY,  
PETITIONER, VS. LOCAL GOVERNMENT OF CALOOCAN CITY,  
MAMERTO MANAHAN, ATTY. NESTOR D. FRANCISCO, AS CITY  
ASSESSOR AND CITY LEGAL OFFICER OF CALOOCAN CITY, AND  
ADORACION ANGELES, PRESIDING JUDGE, REGIONAL TRIAL  
COURT OF CALOOCAN CITY, BRANCH 121. RESPONDENTS.**

### D E C I S I O N

**CORONA, J.:**

The instant petition for *certiorari* assails the Resolution<sup>[1]</sup> of the respondent Regional Trial Court of Caloocan City, Branch 121, dated December 29, 1999, dismissing the petition for mandamus in Civil Case No. C-595, and the Order dated February 23, 2000 denying the subsequent motion for reconsideration.

Petitioner Systems Plus Computer College is a non-stock and non-profit educational institution organized and established in 1997 with business address at 141-143 10th Avenue, Caloocan City. As such, it enjoys property tax exemption from the local government on its buildings but not on the parcels of land which petitioner is renting for P5,000 monthly from its sister companies, Consolidated Assembly, Inc. (Consolidated Assembly) and Pair Management and Development Corporation (Pair Management).

On January 8, 1998, petitioner requested respondent city government of Caloocan, through respondent Mamerto Manahan, City Assessor and Administrator, to extend tax exemption to the parcels of land claiming that the same were being used actually, directly and exclusively for educational purposes pursuant to Article VI, Section 28(3) of the 1987 Constitution<sup>[2]</sup> and other applicable provisions of the Local Government Code.

On February 5, 1998, respondent city government, on recommendation of respondent Atty. Nestor Francisco, City Legal Officer, denied the request on the ground that the subject parcels of land were owned by Consolidated Assembly and Pair Management which derived income therefrom in the form of rentals and other local taxes assumed by the petitioner. Hence, from the land owners' standpoint, the same were not actually, directly and exclusively used for educational purposes.<sup>[3]</sup>

On February 15, 1999, the petitioner, on the one hand, and the Consolidated Assembly and Pair Management, on the other, entered into separate agreements<sup>[4]</sup> which in effect novated their existing contracts of lease on the subject parcels of land and converted them to donations of the beneficial use thereof.

On February 19, 1999, the petitioner wrote respondent City Assessor informing the

latter of the new agreements and seeking a reconsideration of respondent's earlier denial of the application for tax exemption.<sup>[5]</sup> In this connection, a duly notarized certification<sup>[6]</sup> jointly issued by Consolidated Assembly and Pair Management to the effect that they no longer received income by way of rentals from the subject properties, accompanied by the corresponding board resolutions,<sup>[7]</sup> were submitted by the petitioner. Nevertheless, on July 21, 1999, respondent city government again denied the application for tax exemption, reasoning out as follows:

Firstly, it may be reasonably implied from the above facts that SYSTEMS COMPUTER COLLEGE is an agency for its sister corporations, particularly, PAIR MANAGEMENT & DEVELOPMENT CORPORATION and CONSOLIDATED ASSEMBLY, INC. to evade payment of Real Property Taxes.

It bears stress (sic) that immediately after the denial by this Office of the first request of SYSTEMS PLUS COMPUTER COLLEGE for Real Property Tax Exemption of the properties then leased to it by its sister companies; PAIR MANAGEMENT & DEVELOPMENT CORPORATION and CONSOLIDATED ASSEMBLY, INC., the latter corporations donated the beneficial use of the subject properties to SYSTEMS PLUS COMPUTER COLLEGE, if only to evade payment of Real Property Taxes.

The revenue officers, in proper cases, may disregard the separate corporate entity where it serves as a shield for tax evasion. xxx.

Secondly, the grant of exemption from taxation rests upon the theory that an exemption will benefit the body of people, and not upon any idea of lessening the burden of individual or corporate owners.

Thirdly, while the beneficial use of the properties being sought to be exempt from Real Property Taxes were donated to SYSTEMS PLUS COMPUTER COLLEGE, there is no showing that the same are "actually, directly and exclusively" used either for religious, charitable, or educational purposes.<sup>[8]</sup>

Twice debunked, petitioner filed a petition for *mandamus* with the respondent Regional Trial Court of Caloocan City, Branch 121, which, however, dismissed it for being premature. Its timely motion for reconsideration having been denied, petitioner filed the instant petition for certiorari<sup>[9]</sup> imputing grave abuse of discretion on the part of the trial court when it ruled: (1) that mandamus does not lie against the public respondents and (2) that petitioner failed to exhaust available administrative remedies.

Mandamus is defined as a writ commanding a tribunal, corporation, board or person to do the act required to be done when it or he unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station, or unlawfully excludes another from the use and enjoyment of a right or office or which such other is entitled, there being no other plain, speedy, and adequate remedy in the ordinary course of law.<sup>[10]</sup> Where administrative remedies are available, a petition for mandamus does not lie.<sup>[11]</sup>