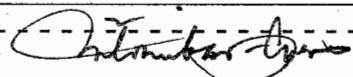


EN BANC

G.R. No. 211299 — LIGHT RAIL TRANSIT AUTHORITY, *petitioner*,
versus CITY OF PASAY, Represented by the CITY TREASURER and
the CITY ASSESSOR, *respondent*.

Promulgated:

June 28, 2022

x----------x

SEPARATE CONCURRING OPINION

CAGUIOA, J.:

I concur with the *ponencia* in granting the instant Petition.

I submit this Separate Concurring Opinion to expound on the following points:

1. In the 2019 case of *Light Rail Transit Authority v. Quezon City*¹ (2019 LRTA case), the Court, applying the doctrine in *Manila International Airport Authority v. Court of Appeals*,² (MIAA case), had already ruled that petitioner Light Rail Transit Authority (LRTA) is a government instrumentality exercising corporate powers and not a government-owned and/or controlled corporation (GOCC). As such, the LRTA properties belong to the Republic of the Philippines and are intended for public use. Accordingly, they are exempt from real property taxes (RPT); and
2. The liability to pay RPT on government-owned properties leased to private entities devolves upon the taxable beneficial user.

Application of the MIAA case to LRTA

In the landmark *MIAA* case, the Court *En Banc*, citing the Administrative Code of 1987 (Administrative Code), distinguished between a GOCC and a government instrumentality and found that petitioner therein Manila International Airport Authority (MIAA) is a government instrumentality and not a GOCC. The Court explained as follows:

Respondents argue that MIAA, being a [GOCC], is not exempt from real estate tax. x x x

¹ G.R. No. 221626, October 9, 2019, 922 SCRA 588.

² 528 Phil. 181 (2006).



There is no dispute that a [GOCC] is not exempt from real estate tax. However, MIAA is **not** a [GOCC]. Section 2(13) of the Introductory Provisions of the Administrative Code of 1987 defines a [GOCC] as follows:

SEC. 2. *General Terms Defined.* — x x x

(13) *Government-owned or controlled corporation* refers to any agency **organized as a stock or non-stock corporation**, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock x x x.

A [GOCC] must be “**organized as a stock or non-stock corporation.**” MIAA is not organized as a stock or non-stock corporation. MIAA is not a stock corporation because it has **no capital stock divided into shares**. MIAA has no stockholders or voting shares. x x x

x x x x

Section 3 of the Corporation Code defines a stock corporation as one whose “**capital stock is divided into shares and x x x authorized to distribute to the holders of such shares dividends x x x.**” MIAA has capital but it is not divided into shares of stock. MIAA has no stockholders or voting shares. Hence, MIAA is not a stock corporation.

MIAA is also not a non-stock corporation because it has no members. Section 87 of the Corporation Code defines a non-stock corporation as “one where no part of its income is distributable as dividends to its members, trustees or officers.” A non-stock corporation must have members. Even if we assume that the Government is considered as the sole member of MIAA, this will not make MIAA a non-stock corporation. Non-stock corporations cannot distribute any part of their income to their members. Section 11 of the MIAA Charter mandates MIAA to remit 20% of its annual gross operating income to the National Treasury. This prevents MIAA from qualifying as a non-stock corporation.

Section 88 of the Corporation Code provides that non-stock corporations are “organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers.” MIAA is not organized for any of these purposes. MIAA, a public utility, is organized to operate an international and domestic airport for public use.

Since MIAA is neither a stock nor a non-stock corporation, MIAA does not qualify as a government-owned or controlled corporation. What then is the legal status of MIAA within the National Government?

MIAA is a **government instrumentality** vested with corporate powers to perform efficiently its governmental functions. MIAA is like any other government instrumentality, the only difference is that MIAA is vested with corporate powers. Section 2(10) of the Introductory Provisions



of the Administrative Code defines a government “**instrumentality**” as follows:

SEC. 2. *General Terms Defined.* — x x x

(10) *Instrumentality* refers to any agency of the National Government, not integrated within the department framework, vested with special functions or jurisdiction by law, **endowed with some if not all corporate powers**, administering special funds, and **enjoying operational autonomy**, usually through a charter. x x x³

Applying the parameters laid down in the *MIAA* case to determine whether a government agency is an instrumentality or a GOCC, the Court thereafter ruled in the *2019 LRTA* case that the LRTA is an instrumentality of the government vested with corporate powers to efficiently perform its governmental functions, and not a GOCC.

For context, in the *2019 LRTA* case, the local government of Quezon City issued warrants of levy on the LRTA’s properties on which realty taxes had not been paid. The subject properties were eventually sold at public auction. But for lack of interested bidders, they were instead sold to Quezon City. Invoking the *MIAA* case, the LRTA sought to nullify the auction sale, claiming it is a government instrumentality and hence, exempt from RPT. The Court extensively discussed the reasons that led to its finding that the LRTA is a government instrumentality vested with corporate powers and not a GOCC. Consequently, the LRTA was declared exempt from RPT. Pertinent portions of the ruling read:

Under their respective *Charters*, both the LRTA and the MIAA do not have capital stock that is divided into shares. To repeat, Section 3 of the Corporation Code **defines** a stock corporation as one whose “capital stock is divided into shares and x x x authorized to distribute to the holders of such dividends x x x.” The LRTA and the MIAA have capital but it is not a capital stock or share capital, which is not divided into shares of stock. Neither of them has stockholders nor voting shares. Hence, the LRTA — as the MIAA — is not a stock corporation.

The LRTA is also not a non[-]stock corporation because it has no members. Section 87 of the *Corporation Code* defines a non[-]stock corporation as “one where no part of its income is distributable as dividends to its members, trustees or officers.” A non[-]stock corporation must have members. Even if we assume that the government is considered as the sole member of the LRTA, this will not make the LRTA a non[-]stock [corporation]. Section 88 of the *Corporation Code* provides that non-stock corporations are “organized for charitable, religious, educational, professional, cultural, recreational, fraternal, literary, scientific, social, civil service, or similar purposes, like trade, industry, agriculture and like chambers.” The LRTA is not organized for any of these purposes. As a public utility, it is organized to operate the light rail transit system for public use.

³ Id. at 209-212; emphasis and italics in the original, citations omitted.

x x x x

Here, the LRTA bears the elemental characteristics of a *government instrumentality vested with corporate powers*. Consider:

One. The vesture of its *corporate powers* is found in Article 2 of Executive Order 603 otherwise known as “Creating a Light Rail Transit Authority, Vesting the same with Authority to Construct and Operate the Light Rail Transit (LRT) project and providing funds therefor,” viz.:

ARTICLE 2
CORPORATE POWERS

SEC. 4. *General Powers.*—The Authority, through the Board of Directors, may undertake such actions as are expedient for or conducive to the attainment of the purposes and objectives of the Authority, or of any purpose reasonably incidental to or consequential upon any of these purposes. x x x.

Two. The LRTA *performs governmental functions*. It is primarily responsible for the construction, operation, maintenance and/or lease of light rail transit systems in the country, giving due regard to the reasonable requirements of the public transportation system of the country. As explained in more detail below, the LRTA’s functions are less commercial than governmental, and more for public use and public welfare than for profit-oriented services.

Three. The LRTA also *enjoys operational autonomy*, as it exists by virtue of a Charter, and its powers and functions are vested in and exercised by its Board of Directors.⁴

Further, the nature of the LRTA’s properties was already fully threshed out in the *2019 LRTA* case. There, the Court determined that the properties registered in the name of the LRTA are for public use and classified as property of public dominion, and thus exempt from RPT under Section 234(a) of the Local Government Code of 1991 (LGC):

To be sure, the LRTA and its properties are tasked to establish the light rail transit in the country. To pursue this mandate and purpose, the LRTA pioneered the construction of light rail transit infrastructure, which was financed through foreign loans. The revenues from the LRTA’s operations were designed to pay for the loans incurred for its construction. The LRTA’s operations were intended as a public utility rather than as a profit-making mechanism. The income which the LRTA generates is being used for its operations, especially the maintenance of rail tracks and trains. x x x

x x x x

Given the mandate and purpose of the LRTA, it stands to reason that the LRTA’s railroads, carriageways, terminal stations and the lots on which

⁴ *Light Rail Transit Authority v. Quezon City*, supra note 1, at 602-610; underscoring, emphasis and italics in the original, citation omitted.



they are found and/or constructed are properties of public dominion intended for public use. As such, they are exempt from real property tax under Section 234(a) of the Local Government Code.

x x x x

Undoubtedly, the light rail transit performs a crucial role in the lives of the people in Metro Manila. And the fact that by necessary implication, it has to pass through several local government units, the protection accorded to properties of public dominion for public use must be extended to the LRTA and its properties. Taking some or a portion of the railroads, railways, carriageways and terminal stations will literally hamper the operation of the light rail transit. Trains run on the rail tracks which are fastened to a concrete foundation resting on a prepared subsurface. Like an airport, the light rail transit has a terminal commonly known as the LRT station. It is a hub where passengers converge to buy train tickets and access the train facilities. It is also where the trains regularly stop to load or unload passengers. These properties are essential for the passenger transport and continued operation of the light rail transit, without which this massive transportation system will be paralyzed.⁵

That there was a *2018 LRTA* case⁶ declaring that the LRTA is a GOCC and not a government instrumentality vested with corporate powers did not prevent the Court from rectifying the error. As it did a year later in the *2019 LRTA* case, the Court correctly applied prevailing jurisprudence. To be sure, the *MIAA* case has become the precedent in determining whether a government entity or agency is an instrumentality or agency of the National Government or a GOCC pursuant to their definitions under the Administrative Code. More importantly, in the *2019 LRTA* case, the Court had already determined the LRTA's status as a government instrumentality exercising corporate powers by applying the criteria set in the *MIAA* case.

The beneficial user is the one liable to pay the RPT

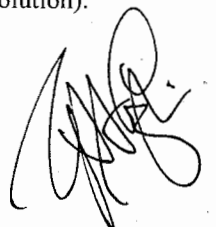
In ruling that the LRTA properties belong to the Republic of the Philippines and are exempt from RPT, the *ponencia* clarifies that portions of these properties that the LRTA leases to private entities are not exempt from RPT. The *ponencia* further cites an example that the land area occupied by private concessionaires in certain LRT lines and terminals should be subject to RPT and explicitly states that it is the **taxable person** who should pay the RPT.⁷ Too, the *ponencia* states in the dispositive portion that all the RPT assessments, as well as the warrants of levy, issued by the City of Pasay, on the LRTA's properties are void, **except the assessment covering the portions that LRTA has leased to private parties, who are liable to pay the corresponding RPT.**⁸

⁵ Id. at 617-621; citations omitted.

⁶ *Light Rail Transit Authority v. City of Manila*, G.R. No. 212925, June 18, 2018 (Unsigned Resolution).

⁷ *Ponencia*, p. 29.

⁸ Id. at 30.



I agree with the *ponencia's* ruling. The liability to pay RPT on government-owned properties leased to private entities devolves upon the taxable beneficial user.

I expound.

Section 234(a) of the LGC provides:

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 subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person[.]

Based on the foregoing, real property owned by the LRTA is generally exempt from the payment of RPT. However, such exemption ceases when *the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person*. Beneficial use means that the person or entity has the **actual use and possession** of the property.⁹

Section 234(a) of the LGC must likewise be read in conjunction with Section 205(d) of the same Code which provides:

SECTION 205. *Listing of Real Property in the Assessment Rolls.* – (a) In every province and city, including the municipalities within the Metropolitan Manila Area, there shall be prepared and maintained by the provincial, city or municipal assessor an assessment roll wherein shall be listed all real property, whether taxable or exempt, located within the territorial jurisdiction of the local government unit concerned. **Real property shall be listed, valued and assessed in the name of the owner or administrator, or anyone having legal interest in the property.**

X X X X

(d) **Real property owned by the Republic of the Philippines, its instrumentalities and political subdivisions, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee or of the public entity if such property has been acquired or held for resale or lease.** (Emphasis and underscoring supplied)

Assessment is the act or process of determining the value of the property for purposes of taxation.¹⁰ Thus, in mandating that the **assessment be made “in the name of the possessor” of the property**, the law clearly holds liable for RPT the taxable person or entity which has the beneficial use

⁹ *Herarc Realty Corporation v. Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018, 879 SCRA 317, 326; emphasis supplied, citation omitted.

¹⁰ LOCAL GOVERNMENT CODE OF 1991, Title II, Chapter I, Sec. 199(f).



of the property — and **not** the Republic of the Philippines, government instrumentality or political subdivision, who owns the property.

Sections 234(a) and 205(d) of the LGC had their counterparts in Sections 40 and 8, respectively of Presidential Decree No. 464¹¹ or the 1974 Real Property Tax Code, to wit:

SECTION 8. *Listing of Real Property in the Assessment Rolls.* — In every province and city, there shall be prepared and maintained by the provincial or city assessor an assessment roll wherein shall be listed all real property, whether taxable or exempt, located within the province or city. Real property shall be listed and valued in the name of the owner or administrator, or anyone having legal interest in the property.

X X X X

Real property owned by the Republic of the Philippines, its political subdivisions and any government-owned corporation so exempt by its charter, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed for purposes of taxation in the name of the grantee, or of the public entity if such property has been acquired for resale or lease.

X X X X

SECTION 40. *Exemptions from Real Property Tax.* — The exemption shall be as follows:

- (a) Real property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned corporation so exempt by its charter: *Provided; however,* That this exemption shall not apply to real property of the abovenamed entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person.¹²

Imposing the liability to pay RPT on the beneficial user flows from the fundamental principle governing our real estate taxation — that the assessment of real property shall be based on its actual use. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.¹³

Prior to the 1974 Real Property Tax Code, real property was taxed on the basis of ownership or interest tantamount to ownership.¹⁴ Later, the 1974 Real Property Tax Code changed the basis of real property taxation by adopting a policy of taxing real property ***on the basis of actual use, even if the user is not the owner.***¹⁵ Thus, Sections 2, 3(a) and 19 thereof provide:

¹¹ ENACTING A REAL PROPERTY TAX CODE, approved on May 20, 1974.

¹² The difference between the subject Sections in the LGC and the 1974 Real Property Tax Code is the exclusion of government-owned corporations in the former.

¹³ LOCAL GOVERNMENT CODE OF 1991, Title II, Chapter I, Sec. 199(b).

¹⁴ *Province of Nueva Ecija v. Imperial Mining Co., Inc.*, 204 Phil. 262, 265 (1982).

¹⁵ *Id.* at 265; emphasis supplied.

SECTION 2. *Fundamental Principles.* – The appraisal and assessment of real property for taxation purposes shall be guided by the following fundamental principles:

x x x x

- 3) Real property shall be classified for assessment purposes on the basis of its actual use;

x x x x

SECTION 3. *Definition of Terms.* – When used in this Code –

- a) *Actual use* – shall refer to the purpose for which the property is principally or predominantly utilized by the persons in possession of the property.

x x x x

Special Classes of Real Property. –

x x x x

SECTION 19. *Actual Use of Real Property as Basis for Assessment.* – Real property shall be assessed on the basis of its actual use regardless of where located and whoever uses it.

It bears emphasis that the afore-quoted provisions were, again, reproduced in the LGC, to wit:

SECTION 198. *Fundamental Principles.* – The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:

x x x x

- (b) Real property shall be classified for assessment purposes on the basis of its actual use;

x x x x

SECTION 199. *Definition of Terms.* – When used in this Title, the term:

x x x x

- (b) “Actual Use” refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof;

x x x x

SECTION 217. *Actual Use of Real Property as Basis for Assessment.* – Real property shall be classified, valued and assessed on the

basis of its actual use regardless of where located, whoever owns it, and whoever uses it.

In addition, jurisprudence is replete with cases following the above consistent provisions of the 1974 Real Property Tax Code and the LGC.

The earliest case is the 1980 case of *City of Baguio v. Busuego*,¹⁶ where a real property tax collection suit was instituted by the local government unit against the purchaser in installment of the property belonging to the Government Service Insurance System (GSIS). The Court found that under the parties' contract to sell, the beneficial use of the property was transferred to the purchaser. The contract also clearly imposed upon the purchaser the obligation to pay the real property tax even if GSIS, a government corporation, is exempt from real property taxes. According to the Court, such contractual stipulation is valid and binding. It is premised on the principle that **"the sole determinative factor for exemption from realty taxes is the 'use' to which the property is devoted[.] And where 'use' is the test, the ownership is immaterial."**¹⁷ The Court also found that such agreement was in conformity with Section 40(a) of the 1974 Real Property Tax Code. Thus, the Court held that on the strength of the provision of Section 40(a), the said property is not exempt from real property tax. Consequently, the purchaser was made liable to pay the real property taxes from the time the possession of such property was transferred to him, although pending full payment of the purchase price, the seller GSIS retains ownership and title over the property.¹⁸

In the 1990 case of *Testate Estate of Concordia T. Lim v. City of Manila*¹⁹ (*Testate Estate of Concordia Lim* case), the plaintiff therein was assessed for RPT, which accrued at the time the properties were still in the name of GSIS because, based on the Deed of Absolute Sale, plaintiff allegedly assumed to pay the taxes due. However, during the time GSIS held the titles, the said properties were leased to other persons. Plaintiff nonetheless paid the assessed taxes under protest and later on filed a claim for refund. The Court granted plaintiff's claim and ordered the local government unit to refund the taxes paid under protest. Citing Sections 3(a) and 19 of the 1974 Real Property Tax Code, the Court held that **"[i]n real estate taxation, the unpaid tax attaches to the property and is chargeable against the taxable person who had actual or beneficial use and possession of it regardless of whether or not he is the owner."**²⁰

The Court also ruled that not even GSIS can be made liable for the tax on the subject properties leased to other persons because "tax should be based on 'actual use' of the property."²¹ This finds support in the clear provision of Section 40 of the 1974 Real Property Tax Code. The Court further held that

¹⁶ 188 Phil. 218 (1980).

¹⁷ Id. at 223, citing Martin on the Rev. Adm. Code, 1961, Vol. II, p. 487; emphasis supplied.

¹⁸ Id. at 220.

¹⁹ 261 Phil. 602 (1990).

²⁰ Id. at 607; emphasis supplied, citations omitted.

²¹ Id. at 611.

“if there is anyone liable [for payment of real property tax,] the law and applicable jurisprudence point to the lessees of land owned by the [GOCC].”²² The Court, however, did not rule on the liabilities of the lessees because their identities were not clear as they were never impleaded.²³

The ratio in the foregoing earlier cases was also applied by the Court in succeeding cases governed by the provisions of the LGC. In the cases of *Republic of the Philippines v. City of Kidapawan*,²⁴ *National Power Corporation v. Province of Quezon, et al.*,²⁵ (NPC case) and *GSIS v. City Treasurer of the City of Manila*,²⁶ where property of the Republic of the Philippines or a government instrumentality is leased or transferred to taxable private individuals or entities, the Court held that liability to pay real property taxes devolves upon the taxable beneficial user. The Court explained that while generally, the liability for taxes rests on the owner of the real property at the time the tax accrues owing to the necessary consequence that proceeds from the fact of ownership,²⁷ personal liability for realty taxes may also expressly vest on the entity with the beneficial use of the real property.²⁸ This situation happens when tax is imposed on the property owned by the government but leased to private persons or entities, or when the tax assessment is made on the basis of the actual use of the property.²⁹ In either case, the Court has consistently emphasized that “**the unpaid realty tax attaches to the property but is directly chargeable against the taxable person who has actual and beneficial use and possession of the property regardless of whether or not that person is the owner.**”³⁰

Furthermore, very recent cases promulgated by the Court reiterate the tax liability of the beneficial user.

In the 2018 case of *Herarc Realty Corporation v. Provincial Treasurer of Batangas*,³¹ the Court stressed anew its ruling in *Testate Estate of Concordia Lim* case that the liability to pay real property taxes on government-owned property rests on the taxable entity exercising actual and beneficial use thereof, viz.:

x x x As the RTC correctly opined, in real estate taxation, the unpaid tax attaches to the property. The personal liability for the tax delinquency is generally on whoever is the owner of the real property at the time the tax accrues. This is a necessary consequence that proceeds from the fact of ownership. **Nonetheless, where the tax liability is imposed on the**

²² Id., citing *Province of Nueva Ecija v. Imperial Mining Co., Inc.*, supra note 14; emphasis supplied.

²³ Id.

²⁴ 513 Phil. 440 (2005).

²⁵ 610 Phil. 456 (2009).

²⁶ G.R. No. 186242, December 23, 2009, 609 SCRA 330.

²⁷ *National Power Corporation v. Province of Quezon, et al.*, supra note 25, at 467, citing *City of Baguio v. Busuego*, supra note 16.

²⁸ Id., citing *Republic of the Philippines v. City of Kidapawan*, supra note 24, at 467, also citing Vitug and Acosta, *Tax Law and Jurisprudence* (2000 ed.), p. 490.

²⁹ Id.

³⁰ Id. at 467-468; emphasis and italics in the original, citations omitted.

³¹ Supra note 9.

beneficial use of the real property, such as those owned but leased to private persons or entities by the government, or when the assessment is made on the basis of the actual use thereof, the personal liability is on any person who has such beneficial or actual use at the time of the accrual of the tax. Beneficial use means that the person or entity has the *use and possession* of the property. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.

x x x **The tax exemption [that] real property owned by the Republic, its political subdivisions, agencies or instrumentalities carries, however, ceases if the beneficial use of the real property has been granted, for a consideration or otherwise, to a taxable person. In such case, the corresponding liability for the payment of the RPT devolves on the taxable beneficial user. As applied in subsequent cases, it is in this context that our ruling in *Testate Estate of Concordia T. Lim* should be understood.** x x x³²

In the 2019 case of *Privatization and Management Office v. Court of Tax Appeals*,³³ the Court recognized that the local government unit correctly assessed for unpaid real property taxes the private entity to whom the government had leased its property. Citing the *NPC* case, the Court held that the private entity, who was the actual and beneficial user of the subject property, is the one directly charged with the payment of tax and not the government entity who owns the property.³⁴

In the same year, the Court decided the *2019 LRTA* case in which the Court stated that the liability to pay RPT on government-owned properties falls on the beneficial user:

In sum, a government instrumentality though vested with corporate powers [is] exempt from real property tax, but the exemption shall not extend to taxable private entities to whom the beneficial use of the government [instrumentality's] properties has been vested. **The taxable private entities are subject to real property tax, but not the government instrumentality they have dealt with, much less, the properties of the government instrumentality subject of such beneficial use.**³⁵

Thus, in the *2019 LRTA* case, the Court declared void all tax assessments and final notices of tax delinquencies issued by Quezon City in the name of the LRTA, as well as the public auction sale of the LRTA's properties and the corresponding certificates of sale issued to Quezon City. The Court further ruled that “[t]he local government of Quezon City **may assess and collect** real property taxes only from those private parties, if any, to whom the [LRTA] may have leased its real property for use by private parties for their private purpose.”³⁶

³² Id. at 325-328; emphasis and underscoring supplied, citations omitted.

³³ G.R. No. 211839, March 18, 2019, 897 SCRA 231.

³⁴ Id. at 241.

³⁵ *Light Rail Transit Authority v. Quezon City*, supra note 1, at 612-613; emphasis and underscoring supplied; italics omitted.

³⁶ Id. at 622; emphasis in the original.

In the 2020 case of *Philippine Heart Center v. The Local Government of Quezon City*³⁷ (*Philippine Heart Center* case), the Court reiterated that the RPT exemption granted by the LGC to a government instrumentality does not extend to taxable private entities to whom the beneficial use of the government instrumentality's properties has been vested. Thus, Section 234 of the LGC allows the imposition of RPT on such properties and the taxable person with beneficial use bears the burden of paying the RPT due thereon. Any remedy for the assessment and collection of RPT should then be directed against the taxable person.³⁸

In the 2021 case of *Estampador v. The City Assessor of Manila*,³⁹ the Court was tasked to resolve who between the property owner and the beneficial user the tax liability falls. Citing the *Philippine Heart Center* case, the Court held that the beneficial user bears the responsibility of paying the RPT that accrued on the parcel of land during the effectivity of the lease agreement. The beneficial user, therefore, is not entitled to claim a refund of the RPT paid under protest.⁴⁰

Still further, the Court just this year held in *Unimasters Conglomeration, Inc. v. Tacloban City Government*⁴¹ that the burden of paying the RPT due on the lease of the hotel passed on to the private entity as the beneficial user thereof. Therein, the hotel in question is owned in common by the Province of Leyte (a political subdivision), as well as by the Privatization and Management Office (PMO) and Philippine Tourism Authority, both of which are government instrumentalities exempt from paying RPT. These co-owners entered into a Contract of Lease with the private entity for the hotel. When the private entity stopped paying RPT despite demand, the City Treasurer of Tacloban instituted a collection case against the co-owners and the private entity. The Court of Tax Appeals (CTA) Division and CTA *En Banc* found the private entity liable to pay the unpaid RPT. When the case reached this Court, it agreed with the CTA *En Banc* that the private entity, as the lessee of the hotel and the possessor and beneficial user thereof, was liable for RPT.⁴²

At the risk of being repetitive, I reiterate that: "the unpaid realty tax attaches to the property but is directly chargeable against the taxable person who has actual and beneficial use and possession of the property regardless of whether or not that person is the owner."⁴³

³⁷ G.R. No. 225409, March 11, 2020.

³⁸ Id.

³⁹ G.R. No. 227288, March 18, 2021 (Unsigned Resolution).

⁴⁰ Id.

⁴¹ G.R. No. 214195, March 23, 2022.

⁴² Id.

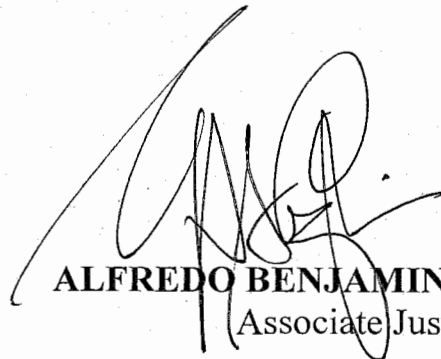
⁴³ Id., citing *MWSS v. Central Board of Assessment Appeals*, G.R. No. 215955, January 13, 2021.



Applying the foregoing principles to the present LRTA case, I agree that only portions of the LRTA properties leased to taxable persons like the private concessionaires are subject to RPT by the City of Pasay.

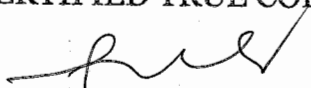
While I recognize that the private concessionaires cannot be held liable for RPT in the present case because they were not impleaded as parties, the liability to pay the RPT ultimately falls on them (private concessionaires) because they have been granted actual and beneficial use of the portions of the LRTA properties. In other words, the tax exemption, which the LRTA carries, is withdrawn the moment the private concessionaires are granted beneficial use over the LRTA's real properties. Since then, the tax liability has accrued, and the corresponding duty to pay the RPT has devolved upon the private concessionaires as the taxable beneficial user.

Accordingly, I concur that the Petition should be **GRANTED**.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFIED TRUE COPY



MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court