

THIRD DIVISION

[G.R. No. 186242, December 23, 2009]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
CITY TREASURER AND CITY ASSESSOR OF THE CITY OF MANILA,
RESPONDENTS.**

D E C I S I O N

VELASCO JR., J.:

The Case

For review under Rule 45 of the Rules of Court on pure question of law are the November 15, 2007 Decision^[1] and January 7, 2009 Order^[2] of the Regional Trial Court (RTC), Branch 49 in Manila, in Civil Case No. 02-104827, a suit to nullify the assessment of real property taxes on certain properties belonging to petitioner Government Service Insurance System (GSIS).

The Facts

Petitioner GSIS owns or used to own two (2) parcels of land, one located at Katigbak 25th St., Bonifacio Drive, Manila (Katigbak property), and the other, at Concepcion cor. Arroceros Sts., also in Manila (Concepcion-Aroceros property). Title to the Concepcion-Aroceros property was transferred to this Court in 2005 pursuant to Proclamation No. 835^[3] dated April 27, 2005. Both the GSIS and the Metropolitan Trial Court (MeTC) of Manila occupy the Concepcion-Aroceros property, while the Katigbak property was under lease.

The controversy started when the City Treasurer of Manila addressed a letter^[4] dated September 13, 2002 to GSIS President and General Manager Winston F. Garcia informing him of the unpaid real property taxes due on the aforementioned properties for years 1992 to 2002, broken down as follows: (a) PhP 54,826,599.37 for the Katigbak property; and (b) PhP 48,498,917.01 for the Concepcion-Aroceros property. The letter warned of the inclusion of the subject properties in the scheduled October 30, 2002 public auction of all delinquent properties in Manila should the unpaid taxes remain unsettled before that date.

On September 16, 2002, the City Treasurer of Manila issued separate Notices of Realty Tax Delinquency^[5] for the subject properties, with the usual warning of seizure and/or sale. On October 8, 2002, GSIS, through its legal counsel, wrote back emphasizing the GSIS' exemption from all kinds of taxes, including realty taxes, under Republic Act No. (RA) 8291.^[6]

Two days after, GSIS filed a petition for certiorari and prohibition^[7] with prayer for a restraining and injunctive relief before the Manila RTC. In it, GSIS prayed for the

nullification of the assessments thus made and that respondents City of Manila officials be permanently enjoined from proceedings against GSIS' property. GSIS would later amend its petition^[8] to include the fact that: (a) the Katigbak property, covered by TCT Nos. 117685 and 119465 in the name of GSIS, has, since November 1991, been leased to and occupied by the Manila Hotel Corporation (MHC), which has contractually bound itself to pay any realty taxes that may be imposed on the subject property; and (b) the Concepcion-Arroceros property is partly occupied by GSIS and partly occupied by the MeTC of Manila.

The Ruling of the RTC

By Decision of November 15, 2007, the RTC dismissed GSIS' petition, as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered, DISMISSING the petition for lack of merit, and declaring the assessment conducted by the respondents City of Manila on the subject real properties of GSIS as valid pursuant to law.

SO ORDERED.^[9]

GSIS sought but was denied reconsideration per the assailed Order dated January 7, 2009.

Thus, the instant petition for review on pure question of law.

The Issues

1. Whether petitioner is exempt from the payment of real property taxes from 1992 to 2002;
2. Whether petitioner is exempt from the payment of real property taxes on the property it leased to a taxable entity; and
3. Whether petitioner's real properties are exempt from warrants of levy and from tax sale for non-payment of real property taxes.^[10]

The Court's Ruling

The issues raised may be formulated in the following wise: *first*, whether GSIS under its charter is exempt from real property taxation; *second*, assuming that it is so exempt, whether GSIS is liable for real property taxes for its properties leased to a taxable entity; and *third*, whether the properties of GSIS are exempt from levy.

In the main, it is petitioner's posture that both its old charter, Presidential Decree No. (PD) 1146, and present charter, RA 8291 or the *GSIS Act of 1997*, exempt the agency and its properties from all forms of taxes and assessments, inclusive of realty tax. Excepting, respondents counter that GSIS may not successfully resist the city's notices and warrants of levy on the basis of its exemption under RA 8291, real property taxation being governed by RA 7160 or the *Local Government Code of 1991* (LGC, hereinafter).

The petition is meritorious.

First Core Issue: GSIS Exempt from Real Property Tax

Full tax exemption granted through PD 1146

In 1936, Commonwealth Act No. (CA) 186^[11] was enacted abolishing the then pension systems under Act No. 1638, as amended, and establishing the GSIS to manage the pension system, life and retirement insurance, and other benefits of all government employees. Under what may be considered as its first charter, the GSIS was set up as a non-stock corporation managed by a board of trustees. Notably, Section 26 of CA 186 provided exemption from any legal process and liens but only for insurance policies and their proceeds, thus:

Section 26. Exemption from legal process and liens. -- No policy of life insurance issued under this Act, or the proceeds thereof, when paid to any member thereunder, nor any other benefit granted under this Act, shall be liable to attachment, garnishment, or other process, or to be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of such member, or his beneficiary, or any other person who may have a right thereunder, either before or after payment; nor shall the proceeds thereof, when not made payable to a named beneficiary, constitute a part of the estate of the member for payment of his debt. x x x

In 1977, PD 1146,^[12] otherwise known as the *Revised Government Service Insurance Act of 1977*, was issued, providing for an expanded insurance system for government employees. Sec. 33 of PD 1146 provided for a new tax treatment for GSIS, thus:

Section 33. Exemption from Tax, Legal Process and Lien. It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the System shall be preserved and maintained at all times and that the contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the members of the System and/or their employees. Taxes imposed on the System tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits under this Act. Accordingly, notwithstanding any laws to the contrary, the **System, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges or duties of all kinds.** These exemptions shall continue unless expressly and specifically revoked and any assessment against the System as of the approval of this Act are hereby considered paid.

The benefits granted under this Act shall not be subject, among others, to attachment, garnishment, levy or other processes. This, however, shall

not apply to obligations of the member to the System, or to the employer, or when the benefits granted herein are assigned by the member with the authority of the System. (Emphasis ours.)

A scrutiny of PD 1146 reveals that the non-stock corporate structure of GSIS, as established under CA 186, remained unchanged. Sec. 34^[13] of PD 1146 pertinently provides that the GSIS, as created by CA 186, shall implement the provisions of PD 1146.

RA 7160 lifted GSIS tax exemption

Then came the enactment in 1991 of the LGC or RA 7160, providing the exercise of local government units (LGUs) of their power to tax, the scope and limitations thereof,^[14] and the exemptions from taxations. Of particular pertinence is the general provision on withdrawal of tax exemption privileges in Sec. 193 of the LGC, and the special provision on withdrawal of exemption from payment of real property taxes in the last paragraph of the succeeding Sec. 234, thus:

SEC. 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.

SEC. 234. Exemption from Real Property Tax. - x x x Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporation are hereby withdrawn upon the effectivity of this Code.

From the foregoing provisos, there can be no serious doubt about the Congress' intention to withdraw, subject to certain defined exceptions, tax exemptions granted prior to the passage of RA 7160. The question that easily comes to mind then is whether or not the full tax exemption heretofore granted to GSIS under PD 1146, particular insofar as realty tax is concerned, was deemed withdrawn. We answer in the affirmative.

In *Mactan Cebu International Airport Authority v. Marcos*,^[15] the Court held that the express withdrawal by the LGC of previously granted exemptions from realty taxes applied to instrumentalities and government-owned and controlled corporations (GOCCs), such as the Mactan-Cebu International Airport Authority. In *City of Davao v. RTC, Branch XII, Davao City*,^[16] the Court, citing *Mactan Cebu International Airport Authority*, declared the GSIS liable for real property taxes for the years 1992 to 1994 (contested real estate tax assessment therein), its previous exemption under PD 1146 being considered withdrawn with the enactment of the LGC in 1991.

Significantly, the Court, in *City of Davao*, stated the observation that the GSIS' tax-exempt status withdrawn in 1992 by the LGC was restored in 1997 by RA 8291.^[17]

Full tax exemption reenacted through RA 8291

Indeed, almost 20 years to the day after the issuance of the GSIS charter, i.e., PD 1146, it was further amended and expanded by RA 8291 which took effect on June 24, 1997.^[18] Under it, the full tax exemption privilege of GSIS was restored, the operative provision being Sec. 39 thereof, a virtual replication of the earlier quoted Sec. 33 of PD 1146. Sec. 39 of RA 8291 reads:

SEC. 39. *Exemption from Tax, Legal Process and Lien.* - It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the GSIS shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the members of the GSIS and their employers. Taxes imposed on the GSIS tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act. Accordingly, notwithstanding, any laws to the contrary, the **GSIS, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges or duties of all kinds. These exemptions shall continue unless expressly and specifically revoked and any assessment against the GSIS as of the approval of this Act are hereby considered paid.** Consequently, all laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation of this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.

Moreover, **these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain or protect the solvency of the fund,** notwithstanding and independently of the guaranty of the national government to secure such solvency or liability.

The **funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies** including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the GSIS. (Emphasis ours.)