

SUMMARY OF SIGNIFICANT SC DECISIONS (August 2011)

-digested by Atty. Cherry Balanquit

1. **“Public company,” as contemplated by the Securities Regulation Code (SRC), is not limited to a company whose shares of stocks are publicly listed; even companies whose shares are offered only to a specific group of people, are considered a public company, provided they meet the requirement as required by law.**

The Securities and Exchange Commission (SEC) required the Bank to comply with the reportorial requirements under Section 17.1 of SRC since it qualifies as a “public company” under Section 17.2 of the SRC. The Bank argued that it is a private company and not a public company because its shares are available only to a limited class or sector. The Supreme Court held that “public company,” as contemplated by the SRC, is not limited to a company whose shares of stocks are publicly listed; even companies like the Bank, whose shares are offered only to a specific group of people, are considered a public company, provided they meet the requirement as required under the SRC. ***(Philippine Veterans Bank vs. Justina Callangan, in her capacity as Director of the Corporation Finance Department of the Securities and Exchange Commission and/or the Securities and Exchange Commission, G.R. No. 191995, August 3, 2011)***

2. **Properties owned by the Republic of the Philippines are exempt from real property tax except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.**

In 1986, Mid-Pasig land development Corporation (MPLDC) was voluntarily surrendered to the Republic of the Philippines. It owned two parcels of land whereby portions of are leased to different business establishments. The Pasig City Assessor’s Office sent MPLDC two notices of tax delinquency for failure to pay real property tax on said properties for the period 1979 to 2001. MPLDC argued that the tax for the period 1979 to 1986 had been paid and that the properties were exempt from tax beginning 1987. The Supreme Court ruled that under Section 234(a) of Republic Act No. 7160, properties owned by the Republic of the Philippines are exempt from real property tax **“except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.”** Thus, the portions of the properties not leased to taxable entities are exempt from real estate tax while the portions of the properties leased to taxable entities are subject to real estate tax. The law imposes the liability to pay real estate tax on the Republic of the Philippines for the portions of the properties leased to taxable entities. It is, of course, assumed that the Republic of the Philippines passes on the real estate tax as part of the rent to the lessees. ***(City of Pasig, represented by the City Treasurer and the City Assessor vs. Republic of the Philippines, represented by the Presidential Commission on Good Government, G.R. No. 185023, August 24, 2011)***

- 3. The payment of appellate docket fees is not a mere technicality of law or procedure. It is an essential requirement, without which the decision or final order appealed from becomes final and executory as if no appeal was filed.**

The taxpayer is the registered owner of more than 200,000 square meters of reclaimed land in Barangay Tambo, Parañaque City. The City Assessor of Parañaque assessed the taxpayer's lots based on the rates applicable to Barangay Baclaran, which rates were higher than those applicable to properties in Barangay Tambo. However, the City Treasurer declared the properties delinquent and included them in the auction sale. Thus, the taxpayer filed a complaint in the RTC of Parañaque City for collection of excess real property taxes and damages with prayer for the issuance of a temporary restraining order and/or preliminary injunction seeking to restrain respondents from enforcing the foreclosure sale. The RTC denied the taxpayer prayer for the issuance of a writ of preliminary injunction. To prevent its properties from being auctioned, it paid the taxes under protest and filed a Notice of Appeal on May 17, 2004. The Court of Appeals dismissed its appeal for failure to pay the required docketing fees. The Supreme Court held that under Section 3, Rule 41, in relation to Section 1, Rule 22 of 1997 Rules of Civil Procedure, it had until May 31, 2004 within which to perfect its appeal by filing within that period the notice of appeal and paying the appellate docket and other legal fees. In the case of the petitioner, its notice of appeal was filed on May 17, 2004 which was within the reglementary period, however, it paid the required docket fees only on October 20, 2004, or late by almost five months. It bears stressing that payment of docket and other fees within this period is mandatory for the perfection of the appeal. Otherwise, the right to appeal is lost. This is so because a court acquires jurisdiction over the subject matter of the action only upon the payment of the correct amount of docket fees regardless of the actual date of filing of the case in court. The payment of appellate docket fees is not a mere technicality of law or procedure. It is an essential requirement, without which the decision or final order appealed from becomes final and executory as if no appeal was filed. (*D.M. Wenceslao and Associates, Inc. vs. City of Parañaque, Parañaque City Assessor, Parañaque City Treasurer and Paranaque City Council, G.R. No. 170728, August 31, 2011*)

SUMMARY OF SIGNIFICANT SC DECISIONS (September 2011)

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- 1. Partial payment of the assessment issued within the extended period to assess as provided for in the Waiver of Defense of Prescription is an implied admission of the validity of the waiver.**

The Bank executed two Waivers of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code covering the internal revenue taxes due for the years 1994 and 1995, effectively extending the period of the Bureau of Internal Revenue (BIR) to assess up to December 31, 2000. A Formal Letter of Demand with Assessment Notices (FLD) was issued by the BIR which was duly protested by the Bank. Thereafter, another FLD was received by the bank with a reduced assessment which was paid on the said day except for deficiency onshore tax and documentary stamp tax which remained to be the subjects of its petition for review. The Bank argued that the waivers of the Statute of Limitations which it executed on January 23, 1997 were

not valid because the same were not signed or conformed to by the Commissioner of Internal Revenue as required under Section 222(b) of the Tax Code. The Supreme Court ruled that the Bank, through its partial payment of the revised assessments issued within the extended period as provided for in the questioned waivers, impliedly admitted the validity of those waivers. Had the Bank truly believed that the waivers were invalid and that the assessments were issued beyond the prescriptive period, then it should not have paid the reduced amount of taxes in the revised assessment. Its subsequent action effectively belies its insistence that the waivers are invalid. The records show that on December 6, 2000, upon receipt of the revised assessment, the Bank immediately made payment on the uncontested taxes. Thus, it is estopped from questioning the validity of the waivers. To hold otherwise and allow a party to gainsay its own act or deny rights which it had previously recognized would run counter to the principle of equity which this institution holds dear. ***(Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue, G.R. 170257, September 7, 2011)***