

**\*\*Title:\*\***

National Power Corporation vs. Province of Pangasinan and Provincial Assessor of Pangasinan

**\*\*Facts:\*\***

1. **\*\*Background:\*\***

- The National Power Corporation (NPC), a government-owned corporation, entered into an Energy Conversion Agreement (ECA) with CEPA Pangasinan Electric Limited (Mirant) for the construction, operation, and maintenance of the Sual Coal-Fired Thermal Power Plant on a Build-Operate-Transfer (BOT) basis, where Mirant was to supply electricity exclusively to NPC. Under the agreement, NPC assumed responsibility for all real property taxes.

2. **\*\*Agreement and Operations:\*\***

- An additional Memorandum of Agreement (MOA) involved NPC, the Province of Pangasinan, the Municipality of Sual, and the Barangay of Pangascasan, establishing responsibilities which included NPC's conformity to local tax payments.

- The power plant began operations in 1998.

- NPC paid real property taxes from 1998 until the first quarter of 2003 but stopped further payments invoking exemptions under R.A. No. 7160.

3. **\*\*Initial Legal Actions:\*\***

- The Municipal Treasurer of Sual issued a Notice of Assessment in September 2003 for unpaid real property taxes. NPC contested this, filing a petition with the Local Board of Assessment Appeals (LBAA), claiming tax exemptions under Section 234(c) of R.A. No. 7160, or alternatively, a lower assessment classification under Section 216 of the same Act.

4. **\*\*Procedural History:\*\***

- **\*\*LBAA Decision:\*\*** Denied NPC's petition in 2004 and 2007, ruling that the actual user and owner of the machinery (Mirant) was not entitled to the exemptions claimed by NPC.

- **\*\*CBAA Decision:\*\*** On appeal, the Central Board of Assessment Appeals (CBAA) consolidated the cases and upheld the LBAA's rulings, denying NPC's claims due to lack of ownership and direct use of the properties.

- **\*\*CTA Decision:\*\*** The Court of Tax Appeals (CTA) affirmed the decisions, reasoning that NPC had no legal interest to claim the exemptions as Mirant was the actual owner and user of the power plant facilities until its transfer to NPC.

5. **\*\*Supreme Court:\*\***

- NPC filed a petition for review with the Supreme Court, maintaining it had the legal personality to claim exemptions on real property taxes and contest the assessments.

**\*\*Issues:\*\***

1. Whether NPC has the legal personality and standing to claim exemptions on real property taxes under Section 234(c) or Section 234(e) of R.A. No. 7160.
2. Whether the subject machinery and equipment can be considered as a special class of real property under Section 216 of R.A. No. 7160 for a lower assessment of property taxes.
3. Whether NPC is entitled to a depreciation allowance under Section 225 of R.A. No. 7160.

**\*\*Court's Decision:\*\***

The Supreme Court denied NPC's petition, reiterating its guiding principle that taxation is the rule and exemption is the exception. The decision outlined the following key points:

1. **\*\*Legal Personality for Tax Exemption Claim:\*\***

- The NPC did not possess the necessary ownership or beneficial use of the properties in question. The ECA specified Mirant as the owner and actual user until the project's formal transfer to NPC.
- Previous decisions, such as in the case of National Power Corporation vs. Central Board of Assessment Appeals, set a precedent that NPC cannot claim exemptions if it is not the actual user of the facilities.

2. **\*\*Special Property Classification:\*\***

- The properties in question could not be classified as special under Section 216 for lower assessment because the actual, direct, and exclusive use requirement applied to Mirant, not NPC.
- Mirant, a private entity, managed and operated the power plant, thereby owning and using it until the transfer to NPC. This disqualified the facilities from the special classification argued by NPC.

3. **\*\*Depreciation Allowance:\*\***

- Similar to the arguments for the tax exemption and special classification, NPC could not claim depreciation allowances because it was not the owner nor had the beneficial use of the properties.
- The legal responsibilities of Mirant as the BOT proponent included ownership and maintenance, preventing NPC from claiming any associated allowances or exemptions until the formal transfer of the project.

**\*\*Doctrine:\*\***

1. **\*\*Taxation Principle:\*\*** Taxation is the rule, and exemption is the exception. (National Power Corporation vs. Province of Quezon)
2. **\*\*Beneficial Use in Taxation:\*\*** Real property tax liability rests on the actual, direct, and beneficial use of the property. Ownership alone does not suffice for tax exemptions if another entity uses the property beneficially.

**\*\*Class Notes:\*\***

- **\*\*Key Elements:\*\***

1. **\*\*Ownership and Use for Tax Exemptions:\*\*** Actual, direct, and exclusive use by the claiming government-owned entity is essential (Sec. 234(c) and Sec. 234(e) of R.A. No. 7160).
2. **\*\*Special Classification:\*\*** Requires the property to be entirely used for purposes defined under Sec. 216, including ownership by the public entity.
3. **\*\*BOT Agreements:\*\*** Under BOT agreements, until the formal transfer, the private entity holds ownership and operational responsibilities (BOT Law).
4. **\*\*Depreciation Allowance:\*\*** Ownership and beneficial use determine eligibility for claims under Sec. 225 of R.A. No. 7160.

**\*\*Historical Background:\*\***

The case is part of a broader legal context where disputes between government entities and local governments over tax liabilities occur frequently, especially under BOT agreements. The case reflects the balancing act between granting exemptions to government-owned corporations and ensuring local government units can collect necessary revenues to support public services. This case reaffirms the principle set in previous rulings, emphasizing the actual use and ownership of properties while clarifying the effect of contractual BOT arrangements on tax liabilities.