REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **16 June 2021** *which reads as follows*:

"G.R. No. 242319 ***(Land Bank of the Philippines v. Bureau of Internal Revenue)***. — In this petition[1] under Rule 45 of the Rules of Court, Land Bank of the Philippines (Land Bank) assails the Court of Appeals' (CA) Decision[2] dated May 15, 2018 and Resolution[3] dated September 26, 2018 in CA-G.R. SP No. 147379, which affirmed the Office of the President's Order[4] dated February 16, 2015 and Resolution[5] dated August 18, 2016 in O.P. Case No. 10-E-218 finding the Secretary of Justice bereft of jurisdiction to adjudicate Land Bank's claim against the Bureau of Internal Revenue (BIR) for a refund of documentary stamp taxes (DST) it allegedly paid twice.

ANTECEDENTS

The controversy stemmed from a loan with real estate mortgage granted by Land Bank to Spouses Ricardo and Elizabeth Sio (Spouses Sio). On March 20, 2001, for Spouses Sio's failure to pay the loan on due dates, Land Bank extrajudicially foreclosed the mortgaged properties and emerged as the highest bidder. The Certificate of Sale[6] was issued, and on May 4, 2001, Land Bank paid the DST in the amount of ₱2,356,545.00.[7] Since the Spouses Sio failed to redeem the properties, Land Bank sought the consolidation of the titles in its name. In the process, Land Bank paid the DST of ₱2,356,545.00 again on May 16, 2002.[8]

Realizing double payment of DST, on May 30, 2005, Land Bank wrote a letter to the Revenue District Office (RDO) of Lucena City to ask

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1 *Rollo*, pp. 43-68.
2 *Id.* at 74-79; penned by Associate Justice Germano Francisco D. Legaspi, with the concurrence of Associate Justices Ramon R. Garcia and Myra V. Garcia-Fernandez.
3 *Id.* at 81-83.
4 *Id.* at 146-147. Issued by Executive Secretary Paquito N. Ochoa, Jr.
5 *Id.* at 158-159. Issued by Executive Secretary Salvador C. Medialdea.
6 *Id.* at 102-104.
7 *Id.* at 105-107.
8 *Id.* at 108.

for either a refund of the DST paid on May 16, 2002, or the offset of its existing DST payments.[9] The RDO advised Land Bank to address its letter to the Collection Service of the BIR,[10] and Land Bank complied on June 21, 2005.[11] After the conduct of an investigation,[12] the Regional Office issued a letter[13] on December 15, 2005, recognizing that "there was indeed double payment of [DST], the first payment having been made on May 4, 2001 and the second on May 16, 2002." However, it denied Land Bank's request for a refund or to offset the DST because the claim was filed out of time under Section 204 (c)[14] of the 1997 National Internal Revenue Code[15] (Tax Code). The Regional Office reiterated its opinion that Land Bank's claim had already prescribed on July 12, 2007.[16]

Land Bank sought reconsideration from the BIR's Chief Legal Division on July 23, 2007[17] but failed to elicit any response.[18] Thus, on July 31, 2009, Land Bank filed a petition[19] with the Secretary of Justice for administrative settlement or adjudication of its claim against the BIR invoking Presidential Decree (PD) No. 242.[20]

On March 24, 2010, acting on the petition,[21] the Secretary of Justice ruled that Land Bank's claim for refund had already prescribed because it was filed only on May 30, 2005, or more than two years from erroneous payment on May 16, 2002. Further, even if Land Bank's administrative claim may still be reviewed, it is the Court of Tax Appeals (CTA) that is vested with jurisdiction to review the BIR's decision, following the Supreme Court's ruling in *Philippine National Oil Co. v. Court of Appeals*[22] (*PNOC*). Failing at a reconsideration, Land Bank appealed to the Office of

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[9] *Id.* at 109.
[10] *Id.* at 110.
[11] *Id.* at 111.
[12] *Id.* at 112-113.
[13] *Id.* at 114-115.
[14] SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —

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(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

[15] Republic Act No. 8424, AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES; approved on December 11, 1997.
[16] *Rollo*, p. 120.
[17] *Id.* at 121.
[18] *Id.* at 122.
[19] *Id.* at 90-101.
[20] PRESCRIBING THE PROCEDURE FOR ADMINISTRATIVE SETTLEMENT OR ADJUDICATION OF DISPUTES, CLAIMS AND CONTROVERSIES BETWEEN OR AMONG GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES," approved on July 9, 1973.
[21] *Rollo*, pp. 148-151. Issued by Justice Secretary Alberto C Agra. It disposed:

In view of the foregoing, the instant petition is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED. *Id.* at 151. (Emphasis in the original.)

[22] 496 Phil. 506 (2005).

the President.

On February 16, 2015, the Office of the President issued an Order[23] affirming the Secretary of Justice's ruling. It denied Land Bank's motion for reconsideration on August 18, 2016.[24]

Undeterred, Land Bank instituted an appeal *via* Rule 43 to the CA. On May 15, 2018, the CA issued the assailed Decision[25] dismissing Land Bank's petition. Citing *PNOC* and *Commissioner of Internal Revenue v. Secretary of Justice*,[26] the CA held that disputes, claims and controversies falling under Section 7 of Republic Act (RA) No. 1125,[27] even though solely between government offices and agencies, including government-owned or controlled corporations, remain in the exclusive appellate jurisdiction of the CTA. Therefore, the Secretary of Justice had no authority to take cognizance of the dispute between Land Bank and the BIR.

The CA denied Land Bank's motion for reconsideration on September 26, 2018.[28] Hence, this petition.

Land Bank insists that the Secretary of Justice has jurisdiction to settle its claim against the BIR under PD No. 242 and based on the Court's ruling in *Power Sector Assets and Liabilities Management Corp. v. Commissioner of Internal Revenue*[29] (*PSALM*) promulgated in 2017. Land Bank advances that its action had not yet prescribed because the law that governs its claim is not Section 204 (c) of the Tax Code but Articles 2154[30] and 2155[31] of the Civil Code on quasi-contracts. Since it filed its request for the refund of erroneously paid DST on May 30, 2005, the action was instituted within the six-year period prescribed in Article 1145 (2).[32]

In its Comment,[33] the BIR, through the Office of the Solicitor

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[23] *Rollo*, pp. 146-147. It disposed:
WHEREFORE, the Resolution and Order appealed from are **AFFIRMED** *in toto*.
SO ORDERED. *Id.* at 147. (Emphases in the original.)

[24] *Id.* at 158-159.

[25] *Id.* at 74-79. The dispositive portion of the Decision reads:
WHEREFORE, the instant petition is **DISMISSED**. The assailed 16 February 2015 Order and 18 August 2016 Resolution of the Office of the President in O.P. Case No. 10-E-218 are **AFFIRMED**.
SO ORDERED. *Id.* at 78. (Emphases in the original.)

[26] 799 Phil. 13 (2016).

[27] AN ACT CREATING THE COURT OF TAX APPEALS; approved on June 16, 1954.

[28] *Rollo*, pp. 81-83. The dispositive portion of the Resolution reads:
WHEREFORE, premises considered, the instant motion for reconsideration is **DENIED**.
SO ORDERED. *Id.* at 82. (Emphases in the original.)

[29] 815 Phil. 966 (2017).

[30] ART. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

[31] ART. 2155. Payment by reason of a mistake in the construction or application of a doubtful or difficult question of law may come within the scope of the preceding article.

[32] ART. 1145. The following actions must be commenced within six years:
(1) Upon an oral contract;
(2) Upon a quasi-contract.

[33] *Rollo*, pp. 434-443.

General, echoes the CA's ruling that the controversy falls within the jurisdiction of the CTA and is beyond the scope of the Secretary of Justice's authority. At any rate, Land Bank's cause of action has been barred by prescription since the claim was filed beyond the two years allowed under Sections 204 and 229 of the Tax Code.

ISSUES

Land Bank proffers the following issues for resolution: (1) whether the Secretary of Justice has jurisdiction over the tax dispute between Land Bank and the BIR; and (2) whether Land Bank's cause of action against the BIR has already prescribed.[34]

RULING

We deny the petition.

The Secretary of Justice correctly dismissed Land Bank's petition for lack of jurisdiction.

Preliminarily, the jurisdiction of the Secretary of Justice to settle and adjudicate all **intra-governmental tax disputes and claims** has been finally decided in *PSALM*[35] that was promulgated on August 8, 2017 and reiterated in *Commissioner of Internal Revenue v. Secretary of Justice*[36] on July 9, 2018. The dispute in those cases was **solely** between or among government offices and agencies, including government-owned or controlled corporations, under the executive branch concerning deficiency taxes. The reason for vesting jurisdiction on all intra-governmental disputes, claims and controversies to the Secretary of Justice (or to the Solicitor General or the Government Corporate Counsel, depending on the issues and the government offices or agencies involved) is consistent with the President's constitutional power of control over all departments, bureaus and offices under the executive branch that cannot be curtailed or diminished by law. It is also in line with the doctrine of exhaustion of administrative remedies that every opportunity must be given to the administrative body to resolve the matter and exhaust all options for a resolution under the remedy provided by statute before bringing an action in or resorting to the courts of justice. The Court explained in *PSALM*:

> It is only proper that intra-governmental disputes be settled administratively since the **opposing government offices, agencies and instrumentalities are all under the President's executive control and supervision**. Section 17, Article VII of the Constitution states unequivocally that: "**The President shall have control of all the executive departments, bureaus and offices**. He shall ensure that the

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[34] *Rollo*, p. 53.
[35] 815 Phil. 966 (2017).
[36] G.R. No. 209289, July 9, 2018, 871 SCRA 245.

laws be faithfully executed." x x x

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Clearly, the President's constitutional power of control over all the executive departments, bureaus and offices cannot be curtailed or diminished by law. "Since the Constitution has given the President the power of control, with all its awesome implications, it is the Constitution alone which can curtail such power." **This constitutional power of control of the President cannot be diminished by the CTA. Thus, if two executive offices or agencies cannot agree, it is only proper and logical that the President, as the sole Executive who under the Constitution has control over both offices or agencies in dispute, should resolve the dispute instead of the courts. The judiciary should not intrude in this executive function of determining which is correct between the opposing government offices or agencies, which are both under the sole control of the President. Under his constitutional power of control, the President decides the dispute between the two executive offices. The judiciary cannot substitute its decision over that of the President**. Only after the President has decided or settled the dispute can the courts' jurisdiction be invoked. Until such time, the judiciary should not interfere since the issue is not yet ripe for judicial adjudication. Otherwise, the judiciary would infringe on the President's exercise of his constitutional power of control over all the executive departments, bureaus, and offices.

Furthermore, under the doctrine of exhaustion of administrative remedies, it is mandated that where a remedy before an administrative body is provided by statute, relief must be sought by exhausting this remedy prior to bringing an action in court in order to give the administrative body every opportunity to decide a matter that comes within its jurisdiction. A litigant cannot go to court without first pursuing his administrative remedies; otherwise, his action is premature and his case is not ripe for judicial determination. PD 242 (now Chapter 14, Book IV of Executive Order No. 292), provides for such administrative remedy. Thus, only after the President has decided the dispute between government offices and agencies can the losing party resort to the courts, if it so desires. Otherwise, a resort to the courts would be premature for failure to exhaust administrative remedies. Non-observance of the doctrine of exhaustion of administrative remedies would result in lack of cause of action, which is one of the grounds for the dismissal of a complaint.[37] (Emphases in the original; citations omitted.)

Similarly, the instant case involves a claim for refund of erroneously paid DST on foreclosure sale between Land Bank, a government banking and financial institution created under RA No. 3844,[38] and the BIR, a government bureau. The Secretary of Justice, therefore, has jurisdiction to decide the case.

Nonetheless, we cannot fault the Secretary of Justice for refusing to take cognizance of Land Bank's claim against the BIR and the Office of the

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[37] *Supra* note 35, at 997-999.

[38] AGRICULTURAL LAND REFORM CODE, REPUBLIC ACT NO. 3844; approved on August 8, 1963.

President in affirming the Secretary's finding of lack of jurisdiction. Land Bank filed its petition with the Secretary of Justice on July 31, 2009. The Secretary of Justice resolved the petition on March 24, 2010,[39] and the Office of the President affirmed the Secretary of Justice's conclusions on February 16, 2015[40] and on August 18, 2016.[41] The prevailing rule then was *PNOC* that was promulgated on April 26, 2005. In *PNOC*, we ruled against the repeal of Section 7 of RA No. 1125 by PD No. 242 enunciated in the 1989 case of *Development Bank of the Phils. v. Court of Appeals*[42] and declared that the exclusive appellate jurisdiction over tax disputes remained with the CTA even though solely among government offices and agencies, *viz.*:

> The PNB and DOJ are of the same position that P.D. No. 242, the more recent law, repealed Section 7(1) of Rep. Act No. 1125, based on the pronouncement of this Court in *Development Bank of the Philippines v. Court of Appeals, et al.*, quoted below:
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> > The Court . . . expresses its entire agreement with the conclusion of the Court of Appeals — and the basic premises thereof — that there is an "irreconcilable repugnancy . . . between Section 7(2) of R.A. No. 1125 and P.D. No. 242," and hence, that the later enactment (P.D. No. 242), being the latest expression of the legislative will, should prevail over the earlier.
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> In the said case, it was expressly declared that P.D. No. 242 repealed Section 7(2) of Rep. Act No. 1125, which provides for the exclusive appellate jurisdiction of the CTA over decisions of the Commissioner of Customs. PNB contends that P.D. No. 242 should be deemed to have likewise repealed Section 7(1) of Rep. Act No. 1125, which provide for the exclusive appellate jurisdiction of the CTA over decisions of the BIR Commissioner.
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> After re-examining the provisions on jurisdiction of Rep. Act No. 1125 and P.D. No. 242, this Court finds itself in disagreement with the pronouncement made in *Development Bank of the Philippines v. Court of Appeals, et al.*, and refers to the earlier case of *Lichauco & Company, Inc. v. Apostol, et al.*, for the guidelines in determining the relation between the two statutes in question, to wit:
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> When there appears to be an inconsistency or conflict between two statutes and one of the statutes is a general law, while the other is a special law, then repeal by implication is not the primary rule applicable. x x x.
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> It has, thus, become an established rule of statutory construction

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[39] *Rollo*, pp. 148-151.
[40] *Id.* at 146-147.
[41] *Id.* at 158-159.
[42] (Resolution), 259 Phil. 1096 (1989).

> that between a general law and a special law, the special law prevails — *Generalia specialibus non derogant.*
>
> Sustained herein is the contention of private respondent Savellano that P.D. No. 242 is a general law that deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. Its coverage is broad and sweeping, encompassing all disputes, claims and controversies. It has been incorporated as Chapter 14, Book IV of E.O. No. 292, otherwise known as the Revised Administrative Code of the Philippines. On the other hand, Rep. Act No. 1125 is a special law dealing with a specific subject matter — the creation of the CTA, which shall exercise exclusive appellate jurisdiction over the tax disputes and controversies enumerated therein.
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> Following the rule on statutory construction involving a general and a special law previously discussed, then **P.D. No. 242 should not affect Rep. Act No. 1125. Rep. Act No. 1125, specifically Section 7 thereof on the jurisdiction of the CTA, constitutes an exception to P.D. No. 242. Disputes, claims and controversies, falling under Section 7 of Rep. Act No. 1125, even though solely among government offices, agencies, and instrumentalities, including government-owned and controlled corporations, remain in the exclusive appellate jurisdiction of the CTA**. Such a construction resolves the alleged inconsistency or conflict between the two statutes, and the fact that P.D. No. 242 is the more recent law is no longer significant.[43] (Emphases supplied; citations omitted.)

Judicial decisions applying or interpreting the law are part of the legal system of the country.[44] Indeed, the doctrine of *stare decisis* required the Secretary of Justice to adhere to the Court's ruling in *PNOC*. In the circumstances, the Secretary of Justice correctly refused to take cognizance of the case.

Land Bank's claim for refund is barred by prescription.

At any rate, whether the Secretary of Justice has jurisdiction or not is academic. Land Bank's claim for refund must be denied for being filed out of time under Sections 204 (C) and 229 of the Tax Code, which read:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
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> x x x x
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been

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[43] *Supra* note 22, at 554-558.
[44] CIVIL CODE, ART. 8.

> rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.
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> x x x x
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> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – **No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax** hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (Emphases supplied.)

The law is clear – administrative claim for refund must be filed with the BIR Commissioner within two years from payment of the tax alleged to have been erroneously or illegally paid. The judicial claim may thereafter be filed but not more than the same two-year period. Land Bank erroneously paid the DST on May 16, 2002, and requested a refund to the RDO of Lucena City only on May 30, 2005.[45] Verily, Land Bank's claim had already prescribed.

Land Bank is mistaken in its contention that the claim for refund is governed by the Civil Code on quasi-contracts, or the rule on *solutio indebiti*, that prescribes in six years. There is *solutio indebiti* when: (1) payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and (2) the payment is made through mistake and not through liberality or some other cause.[46] However, this legal precept does not apply to refund of taxes alleged to have been erroneously or illegally paid. In the recent case of *Commissioner of Internal Revenue v. San Miguel Corp.*,[47] the Court, reiterating prevailing jurisprudence, rejected the application of the principle of *solutio indebiti* to tax refund cases and declared that the provisions of the

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[45] *Rollo*, p. 109.
[46] *Commissioner of Internal Revenue v. Manila Electric Co.*, 735 Phil. 547, 559 (2014).
[47] G.R. Nos. 180740 & 180910, November 11, 2019.

Tax Code shall apply,[48] *viz.*:

> SMC posits, however, that the principle of *solutio indebiti* applies to the Government and that under Article 1145 of the Civil Code, actions upon a quasi-contract must be filed within six (6) years.
>
> The argument of SMC is without merit.
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>
> x x x in *Commissioner of Internal Revenue v. Manila Electric Co.(Meralco)*, the Court squarely addressed the issue of which prescriptive period shall apply to a claim for tax refund of erroneously paid/remitted tax on interest income, whether the two (2)-year prescriptive period under Section 229 of the Tax Reform Act of 1997 or the six (6)-year prescriptive period for actions based on *solutio indebiti* under Article 1145 of the Civil Code. The Court therein applied the two (2)-year prescriptive period under the Tax Reform Act of 1997 which is mandatory regardless of any supervening cause that may arise after payment and categorically declared that *solutio indebiti* was inapplicable, ratiocinating as follows:
>
> > In this regard, petitioner is misguided when it relied upon the six (6)-year prescriptive period for initiating an action on the ground of quasi-contract or *solutio indebiti* under Article 1145 of the New Civil Code. There is *solutio indebiti* where: (1) payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and (2) the payment is made through mistake, and not through liberality or some other cause. **Here, there is a binding relation between petitioner as the taxing authority in this jurisdiction and respondent MERALCO which is bound under the law to act as a withholding agent of NORD/LB Singapore Branch, the taxpayer. Hence, the first element of *solutio indebiti* is lacking. Moreover, such legal precept is inapplicable to the present case since the Tax Code, a special law, explicitly provides for a mandatory period for claiming a refund for taxes erroneously paid.** (Emphasis supplied, citation omitted).
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> Citing *Meralco*, the Court again, in *Metropolitan Bank and Trust Company v. Commissioner of Internal Revenue (Metrobank)*, rejected the application to tax refund cases of the principle of *solutio indebiti* as well as the six (6)-year prescriptive period for claims based on quasi-contract. It reiterated that both administrative and judicial claims for tax refund or credit should be filed within the two (2)-year prescriptive period fixed under Section 229 of the Tax Reform Act of 1997.
>
> Although the *Meralco* and *Metrobank* cases involved erroneously paid taxes on interest income, these may still constitute jurisprudential precedents for the present case concerning excise tax, as both types of

[48] See also *Metropolitan Bank & Trust Co. v. Commissioner of Internal Revenue*, 808 Phil. 575, 584-585, quoting *Commissioner of Internal Revenue v. Manila Electric Co.*, 735 Phil. 547 (2014).

> national revenue taxes are imposed and collected by virtue of the Tax Reform Act of 1997. **Given that the excise taxes on the Red Horse beer product of SMC is imposed and collected under the Tax Reform Act of 1997, then its claim for refund or credit of said taxes illegally or erroneously collected shall logically be governed by the same law, including the applicable prescriptive period for such claim. There is no need to refer to the Civil Code provisions on quasi-contract. As already pointed out by the Court in *Meralco*, the Tax Reform Act of 1997 is a special law, and it is a basic tenet in statutory construction that between a general law and a special law, the special law prevails.** *Generalia specialibus non derogant.*[49] (Emphases supplied; citations omitted.)

Indeed, while the Tax Code recognizes the right of taxpayers to request the return of erroneous or illegal payments from the government, they must do so within a prescribed period.[50] Failure to observe the prescriptive periods to institute administrative and judicial claims would result in the denial of their claims. Land Bank failed to do so within the required two-year period. Its claim for the refund of DST arising from double payment on May 16, 2002, should be denied on the ground of prescription.

FOR THESE REASONS, the petition is **DENIED**.

SO ORDERED." (**J. Lopez, *J.***, *designated additional Member per Special Order No. 2822 dated April 7, 2021.*)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court
05 AUG 2021

[49] *Supra* note 46.
[50] *Commissioner of Internal Revenue v. Manila Electric Co.*, 735 Phil. 547, 560 (2014).

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