



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

PELIZLOY REALTY G.R. No. 183137  
CORPORATION, represented  
herein by its President, GREGORY Present:  
K. LOY,

Petitioner,

VELASCO, JR., J., *Chairperson*,  
PERALTA,  
ABAD,  
MENDOZA, and  
LEONEN, JJ.

-versus-

THE PROVINCE OF BENGUET,  
Respondent.

Promulgated:  
April 10, 2013

*H. Copmans*

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DECISION

LEONEN, J.:

The principal issue in this case is the scope of authority of a province to impose an amusement tax.

This is a *Petition for Review on Certiorari* under Rule 45 of the Rules of Court praying that the December 10, 2007 decision of the Regional Trial Court, Branch 62, La Trinidad, Benguet in Civil Case No. 06-CV-2232 be reversed and set aside and a new one issued in which: (1) respondent

Province of Benguet is declared as having no authority to levy amusement taxes on admission fees for resorts, swimming pools, bath houses, hot springs, tourist spots, and other places for recreation; (2) Section 59, Article X of the Benguet Provincial Revenue Code of 2005 is declared null and void; and (3) the respondent Province of Benguet is permanently enjoined from enforcing Section 59, Article X of the Benguet Provincial Revenue Code of 2005.

Petitioner Pelizloy Realty Corporation (“Pelizloy”) owns Palm Grove Resort, which is designed for recreation and which has facilities like swimming pools, a spa and function halls. It is located at Asin, Angalisan, Municipality of Tuba, Province of Benguet.

On December 8, 2005, the Provincial Board of the Province of Benguet approved Provincial Tax Ordinance No. 05-107, otherwise known as the Benguet Revenue Code of 2005 (“Tax Ordinance”). Section 59, Article X of the Tax Ordinance levied a ten percent (10%) amusement tax on gross receipts from admissions to “resorts, swimming pools, bath houses, hot springs and tourist spots.” Specifically, it provides the following:

Article Ten: Amusement Tax on Admission

Section 59. Imposition of Tax. There is hereby levied a tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, cockpits, dancing halls, dancing schools, night or day clubs, and other places of amusement at the rate of thirty percent (30%) of the gross receipts from admission fees; and

A tax of ten percent (10%) of gross receipts from admission fees for boxing, resorts, swimming pools, bath houses, hot springs, and tourist spots is likewise levied. [Emphasis and underscoring supplied]

Section 162 of the Tax Ordinance provided that the Tax Ordinance shall take effect on January 1, 2006.

It was Pelizloy's position that the Tax Ordinance's imposition of a 10% amusement tax on gross receipts from admission fees for resorts, swimming pools, bath houses, hot springs, and tourist spots is an *ultra vires* act on the part of the Province of Benguet. Thus, it filed an appeal/petition before the Secretary of Justice on January 27, 2006.

The appeal/petition was filed within the thirty (30)-day period from the effectivity of a tax ordinance allowed by Section 187 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC).<sup>1</sup> The

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<sup>1</sup> Section 187. *Procedure for Approval and Effectivity of Tax, Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue

appeal/petition was docketed as MSO-OSJ Case No. 03-2006.

Under Section 187 of the LGC, the Secretary of Justice has sixty (60) days from receipt of the appeal to render a decision. After the lapse of which, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

Treating the Secretary of Justice's failure to decide on its appeal/petition within the sixty (60) days provided by Section 187 of the LGC as an implied denial of such appeal/petition, Pelizloy filed a Petition for Declaratory Relief and Injunction before the Regional Trial Court, Branch 62, La Trinidad, Benguet. The petition was docketed as Civil Case No. 06-CV-2232.

Pelizloy argued that Section 59, Article X of the Tax Ordinance imposed a percentage tax in violation of the limitation on the taxing powers of local government units (LGUs) under Section 133 (i) of the LGC. Thus, it was null and void *ab initio*. Section 133 (i) of the LGC provides:

Section 133. *Common Limitations on the Taxing Powers of Local Government Units.* - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

x x x

(i) Percentage or value-added tax (VAT) on sales, barter or exchanges or similar transactions on goods or services except as otherwise provided herein

The Province of Benguet assailed the Petition for Declaratory Relief and Injunction as an improper remedy. It alleged that once a tax liability has attached, the only remedy of a taxpayer is to pay the tax and to sue for recovery after exhausting administrative remedies.<sup>2</sup>

On substantive grounds, the Province of Benguet argued that the

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measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

<sup>2</sup> *Rollo*, p. 91.

phrase ‘other places of amusement’ in Section 140 (a) of the LGC<sup>3</sup> encompasses resorts, swimming pools, bath houses, hot springs, and tourist spots since “Article 220 (b) (sic)” of the LGC defines “amusement” as “pleasurable diversion and entertainment x x x synonymous to relaxation, avocation, pastime, or fun.”<sup>4</sup> However, the Province of Benguet erroneously cited Section 220 (b) of the LGC. Section 220 of the LGC refers to valuation of real property for real estate tax purposes. Section 131 (b) of the LGC, the provision which actually defines “amusement”, states:

Section 131. *Definition of Terms.* - When used in this Title, the term:

x x x

(b) "Amusement" is a pleasurable diversion and entertainment. It is synonymous to relaxation, avocation, pastime, or fun

On December 10, 2007, the RTC rendered the assailed Decision dismissing the Petition for Declaratory Relief and Injunction for lack of merit.

Procedurally, the RTC ruled that Declaratory Relief was a proper remedy. On the validity of Section 59, Article X of the Tax Ordinance, the RTC noted that, while Section 59, Article X imposes a percentage tax, Section 133 (i) of the LGC itself allowed for exceptions. It noted that what the LGC prohibits is not the imposition by LGUs of percentage taxes in general but the “imposition and levy of percentage tax on sales, barter, etc., on goods and services only.”<sup>5</sup> It further gave credence to the Province of Benguet's assertion that resorts, swimming pools, bath houses, hot springs, and tourist spots are encompassed by the phrase ‘other places of amusement’ in Section 140 of the LGC.

On May 21, 2008, the RTC denied Pelizloy's Motion for Reconsideration.

Aggrieved, Pelizloy filed the present petition on June 10, 2008 on pure questions of law. It assailed the legality of Section 59, Article X of the Tax Ordinance as being a (supposedly) prohibited percentage tax per Section 133 (i) of the LGC.

In its *Comment*, the Province of Benguet, erroneously citing Section

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<sup>3</sup> Section 140. Amusement Tax - (a) The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.

<sup>4</sup> *Rollo*, p. 92.

<sup>5</sup> *Id.* at 101.

40 of the LGC, argued that Section 59, Article X of the Tax Ordinance does not levy a percentage tax “because the imposition is not based on the *total gross receipts of services* of the petitioner but solely and actually limited on the *gross receipts of the admission fees collected*.”<sup>6</sup> In addition, it argued that provinces can validly impose amusement taxes on resorts, swimming pools, bath houses, hot springs, and tourist spots, these being ‘amusement places’.

For resolution in this petition are the following issues:

1. Whether or not Section 59, Article X of Provincial Tax Ordinance No. 05-107, otherwise known as the Benguet Revenue Code of 2005, levies a percentage tax.
2. Whether or not provinces are authorized to impose amusement taxes on admission fees to resorts, swimming pools, bath houses, hot springs, and tourist spots for being “amusement places” under the Local Government Code.

The power to tax “is an attribute of sovereignty,”<sup>7</sup> and as such, inheres in the State. Such, however, is not true for provinces, cities, municipalities and barangays as they are not the sovereign;<sup>8</sup> rather, they are mere “territorial and political subdivisions of the Republic of the Philippines”.<sup>9</sup>

The rule governing the taxing power of provinces, cities, municipalities and barangays is summarized in *Icard v. City Council of Baguio*:<sup>10</sup>

It is settled that a municipal corporation unlike a sovereign state is clothed with no inherent power of taxation. The charter or statute must plainly show an intent to confer that power or the municipality, cannot assume it. And the power when granted is to be construed in *strictissimi juris*. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions – all these – have no place in the interpretation of the taxing power of a municipal corporation.<sup>11</sup> [Underscoring supplied]

Therefore, the power of a province to tax is limited to the extent that

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<sup>6</sup> Id. at 123.

<sup>7</sup> *Reyes v. Almanzor*, 273 Phil. 558, 564 (1991).

<sup>8</sup> *Icard v. City Council of Baguio*, 83 Phil 870, 873 (1949) and *City of Iloilo v. Villanueva*, 105 Phil. 337 (1959).

<sup>9</sup> CONSTITUTION, Art. X, Sec. 1.

<sup>10</sup> Supra note 8.

<sup>11</sup> Id., citing *Cu Unjieng vs. Patstone*, 42 Phil. 818, 830 (1922); *Pacific Commercial Co. vs. Romualdez*, 49 Phil. 917, 924 (1927); *Batangas Transportation Co. vs. Provincial Treasure of Batangas*, 52 Phil. 190, 196 (1928); *Baldwin vs. Coty Council* 53 Ala., p. 437; *State vs. Smith* 31 Iowa, p. 493; 38 Am Jur pp. 68, 72-73.

such power is delegated to it either by the Constitution or by statute. Section 5, Article X of the 1987 Constitution is clear on this point:

Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments. [Underscoring supplied]

Per Section 5, Article X of the 1987 Constitution, “the power to tax is no longer vested exclusively on Congress; local legislative bodies are now given direct authority to levy taxes, fees and other charges.”<sup>12</sup> Nevertheless, such authority is “subject to such guidelines and limitations as the Congress may provide”.<sup>13</sup>

In conformity with Section 3, Article X of the 1987 Constitution,<sup>14</sup> Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code of 1991. Book II of the LGC governs local taxation and fiscal matters.

Relevant provisions of Book II of the LGC establish the parameters of the taxing powers of LGUS found below.

First, Section 130 provides for the following fundamental principles governing the taxing powers of LGUs:

1. Taxation shall be uniform in each LGU.
2. Taxes, fees, charges and other impositions shall:
  - a. be equitable and based as far as practicable on the taxpayer's ability to pay;
  - b. be levied and collected only for public purposes;
  - c. not be unjust, excessive, oppressive, or confiscatory;

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<sup>12</sup> *National Power Corporation v. City of Cabanatuan*, 449 Phil. 233, 248 (2003), citing *Mactan Cebu International Airport Authority vs. Marcos*, G.R. No. 120082, September 11, 1996, 261 SCRA 667, 680, citing Cruz, Isagani A., CONSTITUTIONAL LAW (1991) at 84.

<sup>13</sup> CONSTITUTION, Art. X, Sec. 5.

<sup>14</sup> Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

- d. not be contrary to law, public policy, national economic policy, or in the restraint of trade.
3. The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person.
4. The revenue collected pursuant to the provisions of the LGC shall inure solely to the benefit of, and be subject to the disposition by, the LGU levying the tax, fee, charge or other imposition unless otherwise specifically provided by the LGC.
5. Each LGU shall, as far as practicable, evolve a progressive system of taxation.

Second, Section 133 provides for the common limitations on the taxing powers of LGUs. Specifically, Section 133 (i) prohibits the levy by LGUs of percentage or value-added tax (VAT) on sales, barter or exchanges or similar transactions on goods or services except as otherwise provided by the LGC.

As it is Pelizloy's contention that Section 59, Article X of the Tax Ordinance levies a prohibited percentage tax, it is crucial to understand first the concept of a percentage tax.

In *Commissioner of Internal Revenue v. Citytrust Investment Phils. Inc.*,<sup>15</sup> the Supreme Court defined percentage tax as a "tax measured by a certain percentage of the gross selling price or gross value in money of goods sold, bartered or imported; or of the gross receipts or earnings derived by any person engaged in the sale of services." Also, Republic Act No. 8424, otherwise known as the National Internal Revenue Code (NIRC), in Section 125, Title V,<sup>16</sup> lists amusement taxes as among the (other) percentage taxes

<sup>15</sup> 534 Phil. 517, 536 (2006), citing *Commissioner of Internal Revenue v. Solidbank Corporation*, G.R. No. 148191, November 25, 2003.

<sup>16</sup> TITLE V

OTHER PERCENTAGE TAXES

x x x

SECTION 125. Amusement Taxes. - There shall be collected from the proprietor, lessee or operator of cockpits, cabarets, night or day clubs, boxing exhibitions, professional basketball games, Jai-Alai and racetracks, a tax equivalent to:

- (a) Eighteen percent (18%) in the case of cockpits;
- (b) Eighteen percent (18%) in the case of cabarets, night or day clubs;
- (c) Ten percent (10%) in the case of boxing exhibitions: Provided, however, That boxing exhibitions wherein World or Oriental Championships in any division is at stake shall be exempt from amusement tax: Provided, further, That at least one of the contenders for World or Oriental Championship is a citizen of the Philippines and said exhibitions are promoted by a citizen/s of the Philippines or by a corporation or association at least sixty percent (60%) of the capital of which is owned by such citizens;
- (d) Fifteen percent (15%) in the case of professional basketball games as envisioned in Presidential Decree No. 871: Provided, however, That the tax herein shall be in lieu of all

which are levied regardless of whether or not a taxpayer is already liable to pay value-added tax (VAT).

Amusement taxes are fixed at a certain percentage of the gross receipts incurred by certain specified establishments.

Thus, applying the definition in *CIR v. Citytrust* and drawing from the treatment of amusement taxes by the NIRC, amusement taxes are percentage taxes as correctly argued by Pelizloy.

However, provinces are not barred from levying amusement taxes even if amusement taxes are a form of percentage taxes. Section 133 (i) of the LGC prohibits the levy of percentage taxes “except as otherwise provided” by the LGC.

Section 140 of the LGC provides:

SECTION 140. Amusement Tax - (a) The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.

(b) In the case of theaters of cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the provincial treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.

(c) The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop, rock, or similar concerts shall be exempt from the payment of the tax herein imposed.

(d) The Sangguniang Panlalawigan may prescribe the time, manner, terms and conditions for the payment of tax. In case of fraud or failure to pay the tax, the Sangguniang Panlalawigan may impose such

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other percentage taxes of whatever nature and description; and

- (e) Thirty percent (30%) in the case of Jai-Alai and racetracks of their gross receipts, irrespective, of whether or not any amount is charged for admission.

For the purpose of the amusement tax, the term "gross receipts" embraces all the receipts of the proprietor, lessee or operator of the amusement place. Said gross receipts also include income from television, radio and motion picture rights, if any. A person or entity or association conducting any activity subject to the tax herein imposed shall be similarly liable for said tax with respect to such portion of the receipts derived by him or it.

The taxes imposed herein shall be payable at the end of each quarter and it shall be the duty of the proprietor, lessee or operator concerned, as well as any party liable, within twenty (20) days after the end of each quarter, to make a true and complete return of the amount of the gross receipts derived during the preceding quarter and pay the tax due thereon.



surcharges, interests and penalties.

(e) The proceeds from the amusement tax shall be shared equally by the province and the municipality where such amusement places are located. [Underscoring supplied]

Evidently, Section 140 of the LGC carves a clear exception to the general rule in Section 133 (i). Section 140 expressly allows for the imposition by provinces of amusement taxes on “the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement.”

However, resorts, swimming pools, bath houses, hot springs, and tourist spots are not among those places expressly mentioned by Section 140 of the LGC as being subject to amusement taxes. Thus, the determination of whether amusement taxes may be levied on admissions to resorts, swimming pools, bath houses, hot springs, and tourist spots hinges on whether the phrase ‘other places of amusement’ encompasses resorts, swimming pools, bath houses, hot springs, and tourist spots.

Under the principle of *ejusdem generis*, “where a general word or phrase follows an enumeration of particular and specific words of the same class or where the latter follow the former, the general word or phrase is to be construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned.”<sup>17</sup>

The purpose and rationale of the principle was explained by the Court in *National Power Corporation v. Angas*<sup>18</sup> as follows:

The purpose of the rule on *ejusdem generis* is to give effect to both the particular and general words, by treating the particular words as indicating the class and the general words as including all that is embraced in said class, although not specifically named by the particular words. This is justified on the ground that if the lawmaking body intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms. [2 Sutherland, Statutory Construction, 3<sup>rd</sup> ed., pp. 395-400].<sup>19</sup>

In *Philippine Basketball Association v. Court of Appeals*,<sup>20</sup> the Supreme Court had an opportunity to interpret a starkly similar provision or the counterpart provision of Section 140 of the LGC in the Local Tax Code then in effect. Petitioner Philippine Basketball Association (PBA) contended that it was subject to the imposition by LGUs of amusement taxes (as

<sup>17</sup> *Miranda v. Abaya*, 370 Phil. 642, 658, citing *Vera v. Cuevas*, G.R. Nos. L-33693-94, May 31, 1979, 90 SCRA 379.

<sup>18</sup> G.R. Nos. 60225-26, May 8, 1992, 208 SCRA 542 (1992).

<sup>19</sup> Id. at 547.

<sup>20</sup> 392 Phil. 133, 141 (2000).

opposed to amusement taxes imposed by the national government). In support of its contentions, it cited Section 13 of Presidential Decree No. 231, otherwise known as the Local Tax Code of 1973, (which is analogous to Section 140 of the LGC) providing the following:

Section 13. Amusement tax on admission. - The province shall impose a tax on admission to be collected from the proprietors, lessees, or operators of theaters, cinematographs, concert halls, circuses and other places of amusement xxx.

Applying the principle of *ejusdem generis*, the Supreme Court rejected PBA's assertions and noted that:

[I]n determining the meaning of the phrase 'other places of amusement', one must refer to the prior enumeration of theaters, cinematographs, concert halls and circuses with artistic expression as their common characteristic. Professional basketball games do not fall under the same category as theaters, cinematographs, concert halls and circuses as the latter basically belong to artistic forms of entertainment while the former caters to sports and gaming.<sup>21</sup> [Underscoring supplied]

However, even as the phrase 'other places of amusement' was already clarified in *Philippine Basketball Association*, Section 140 of the LGC adds to the enumeration of 'places of amusement' which may properly be subject to amusement tax. Section 140 specifically mentions 'boxing stadia' in addition to "theaters, cinematographs, concert halls [and] circuses" which were already mentioned in PD No. 231. Also, 'artistic expression' as a characteristic does not pertain to 'boxing stadia'.

In the present case, the Court need not embark on a laborious effort at statutory construction. Section 131 (c) of the LGC already provides a clear definition of 'amusement places':

Section 131. *Definition of Terms*. - When used in this Title, the term:

x x x

(c) "Amusement Places" include theaters, cinemas, concert halls, circuses and other places of amusement where one seeks admission to entertain oneself by seeing or viewing the show or performances [Underscoring supplied]

Indeed, theaters, cinemas, concert halls, circuses, and boxing stadia are bound by a common typifying characteristic in that they are all venues

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<sup>21</sup> Id. at 366.

primarily for the staging of spectacles or the holding of public shows, exhibitions, performances, and other events meant to be viewed by an audience. Accordingly, ‘other places of amusement’ must be interpreted in light of the typifying characteristic of being venues “where one seeks admission to entertain oneself by seeing or viewing the show or performances” or being venues primarily used to stage spectacles or hold public shows, exhibitions, performances, and other events meant to be viewed by an audience.

As defined in The New Oxford American Dictionary,<sup>22</sup> ‘show’ means “a spectacle or display of something, typically an impressive one”;<sup>23</sup> while ‘performance’ means “an act of staging or presenting a play, a concert, or other form of entertainment.”<sup>24</sup> As such, the ordinary definitions of the words ‘show’ and ‘performance’ denote not only visual engagement (*i.e.*, the seeing or viewing of things) but also active doing (*e.g.*, displaying, staging or presenting) such that actions are manifested to, and (correspondingly) perceived by an audience.

Considering these, it is clear that resorts, swimming pools, bath houses, hot springs and tourist spots cannot be considered venues primarily “where one seeks admission to entertain oneself by seeing or viewing the show or performances”. While it is true that they may be venues where people are visually engaged, they are not primarily venues for their proprietors or operators to actively display, stage or present shows and/or performances.

Thus, resorts, swimming pools, bath houses, hot springs and tourist spots do not belong to the same category or class as theaters, cinemas, concert halls, circuses, and boxing stadia. It follows that they cannot be considered as among the ‘other places of amusement’ contemplated by Section 140 of the LGC and which may properly be subject to amusement taxes.

At this juncture, it is helpful to recall this Court’s pronouncements in *Icard*:

[T]he power [to tax] when granted [to a province] is to be construed in *strictissimi juris*. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the [province]. Inferences, implications, deductions – all these – have no place in the interpretation of the taxing power of a [province].<sup>25</sup>

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<sup>22</sup> THE NEW OXFORD AMERICAN DICTIONARY (2<sup>nd</sup> ed., 2005).

<sup>23</sup> *Id.* at 1571.

<sup>24</sup> *Id.* at 1264.

<sup>25</sup> *Supra* note 8.

In this case, the definition of 'amusement places' in Section 131 (c) of the LGC is a clear basis for determining what constitutes the 'other places of amusement' which may properly be subject to amusement tax impositions by provinces. There is no reason for going beyond such basis. To do otherwise would be to countenance an arbitrary interpretation/application of a tax law and to inflict an injustice on unassuming taxpayers.

The previous pronouncements notwithstanding, it will be noted that it is only the second paragraph of Section 59, Article X of the Tax Ordinance which imposes amusement taxes on "resorts, swimming pools, bath houses, hot springs, and tourist spots". The first paragraph of Section 59, Article X of the Tax Ordinance refers to "theaters, cinemas, concert halls, circuses, cockpits, dancing halls, dancing schools, night or day clubs, and other places of amusement". In any case, the issues raised by Pelizloy are pertinent only with respect to the second paragraph of Section 59, Article X of the Tax Ordinance. Thus, there is no reason to invalidate the first paragraph of Section 59, Article X of the Tax Ordinance. Any declaration as to the Province of Benguet's lack of authority to levy amusement taxes must be limited to admission fees to resorts, swimming pools, bath houses, hot springs and tourist spots.

Moreover, the second paragraph of Section 59, Article X of the Tax Ordinance is not limited to resorts, swimming pools, bath houses, hot springs, and tourist spots but also covers admission fees for boxing. As Section 140 of the LGC allows for the imposition of amusement taxes on gross receipts from admission fees to boxing stadia, Section 59, Article X of the Tax Ordinance must be sustained with respect to admission fees from boxing stadia.

WHEREFORE, the petition for review on certiorari is **GRANTED**. The second paragraph of Section 59, Article X of the Benguet Provincial Revenue Code of 2005, in so far as it imposes amusement taxes on admission fees to resorts, swimming pools, bath houses, hot springs and tourist spots, is declared null and void. Respondent Province of Benguet is permanently enjoined from enforcing the second paragraph of Section 59, Article X of the Benguet Provincial Revenue Code of 2005 with respect to resorts, swimming pools, bath houses, hot springs and tourist spots.


**SO ORDERED.**



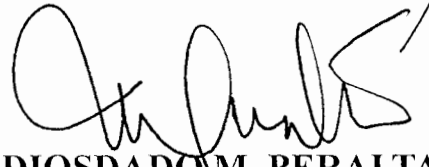
**MARVIC MARIO VICTOR F. LEONEN**

Associate Justice

WE CONCUR:

  
**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson

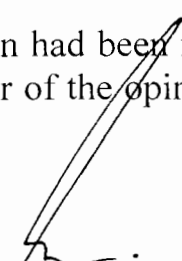
  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

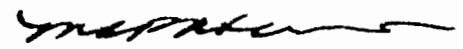
### ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice