

**Lung Center of the Philippines, Petitioner, V. Quezon City and Constantino P. Rosas, In His Capacity as City Assessor of Quezon City, Respondents**  
G.R. No. 144104, 29 June 2004, Second Division (Callejo Sr., J.)

*To determine whether an enterprise is a charitable institution/entity or not, the elements which should be considered include the statute creating the enterprise, its corporate purposes, its constitution and by-laws, the methods of administration, the nature of the actual work performed, the character of the services rendered, the indefiniteness of the beneficiaries, and the use and occupation of the properties. What is meant by actual, direct and exclusive use of the property for charitable purposes is the direct and immediate and actual application of the property itself to the purposes for which the charitable institution is organized. It is not the use of the income from the real property that is determinative of whether the property is used for tax-exempt purposes.*

Lung Center of the Philippines, herein petitioner, is a non-stock and non-profit entity organized under PD # 1823. It owned a lot located in Quezon Avenue corner Elliptical Road erected therein is a hospital. The space at the ground floor of the said hospital is being leased to private parties, for canteen and small store spaces and to medical or professional practitioners who use their clinics for their patients. A big portion of the said lot is being occupied by a private enterprise known as Elliptical Orchids and Garden Center. Petitioner accepts both paying and non-paying patients. It also receives annual subsidies from the government.

On June 7, 1993, the City Assessor of Quezon City assessed real property taxes amounting to P4,554,860 on the land and the hospital building of the petitioner. The latter filed a Claim for Exemption from real property taxes with the City Assessor claiming that it is a charitable institution. Its claim was denied. Petitioner then filed for a reversal of the City Assessor's resolution to the Local Board of Assessment Appeals of Quezon City, also known as QC-LBAA. Petitioner claimed that under Section 28 paragraph 3 of the 1987 Constitution the property is exempted from real property taxes. It contended that 60% of its hospital beds are exclusively used for charity patients and that the hospital's operation is for charity patients. QC-LBAA dismissed the petition and held the petitioner liable for real property taxes.

The Central Board of Assessment Appeals of Quezon City (CBAA) affirmed the said decision. The petitioner appealed to the Court of Appeals which also affirmed the same. Hence, this petition with the Supreme Court.

**ISSUES:**

1. Whether or not Lung Center is a charitable institution within the context of Presidential Decree No. 1823 and the 1973 and 1987 Constitutions and Section 234(b) of Republic Act No. 7160
2. Whether or not the real properties of the petitioner are exempt from real property taxes

**HELD:**

**First Issue:**

**It is a charitable institution within the context of the 1973 and 1987 Constitution**

The petitioner is a charitable institution within the context of the 1973 and 1987 Constitutions. To determine whether an enterprise is a charitable institution/entity or not, the elements which should be

considered include the statute creating the enterprise, its corporate purposes, its constitution and by-laws, the methods of administration, the nature of the actual work performed, the character of the services rendered, the indefiniteness of the beneficiaries, and the use and occupation of the properties.

Under PD # 1823, herein petitioner is a non-profit and non-stock corporation which is administered by the Office of the President of the Philippines with the Ministry of Health and the Ministry of Human Settlements. The Lung Center is organized for the welfare and benefit of the Filipino people to combat the high incidence of lung and pulmonary diseases in the Philippines. The services offered by the petitioner are for the general public in any and walks of life including those who are poor and the needy without discrimination.

As a general principle, a charitable institution does not lose its character as such and its exemption for taxes simply because it derives income from paying patients, whether out-patient, or confined in the hospitals, or receives subsidies from the government, so long as the money received is devoted or used altogether to the charitable object which it is intended to achieve; and no money inures to the private benefit of the persons managing or operating the institution.

Petitioner is also entitled to receive donations. Even so, it does not lose its character as a charitable institution simply because the gift or donation is in the form of subsidies granted by the government.

### **Second issue:**

#### **Real Property That Are Leased To Private Entities Are Not Exempt From Real Property Taxes**

Those portions of the petitioner's real property that are leased to private entities are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes.

Section 28(3), Article VI of the 1987 Philippine Constitution provides that:

(3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly and exclusively used for religious, charitable or educational purposes shall be exempt from taxation.

In this provision, what is exempted is the property taxes only. Those exempted from real estate taxes are land, buildings, and improvements actually, directly and exclusively used for religious, charitable or educational purposes.

This constitutional provision is implemented by section 234(B) of RA 7160 (Local Government Code of 1991). Under which it provides that:

**SECTION 234. Exemptions from Real Property Tax.** – The following are exempted from payment of the real property tax:

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes.

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It is clear from the abovementioned provisions that in order to be entitled to the exemption, the petitioner is burdened to prove, by clear and unequivocal proof, that (a) it is a charitable institution; and (b) its real properties are ACTUALLY, DIRECTLY and EXCLUSIVELY used for charitable purposes. What is meant by actual, direct and exclusive use of the property for charitable purposes is the direct and immediate and actual application of the property itself to the purposes for which the charitable institution is organized. It is not the use of the income from the real property that is determinative of whether the property is used for tax-exempt purposes.

Unfortunately, the Lung Center of the Philippines failed to prove that the entirety of its real property is actually, directly and exclusively used for charitable purposes. A part of the hospital is being used for the treatment of patients, but a relative portion is being leased to private individuals for their clinics and canteen and by the Elliptical Orchids and Garden Center.

Accordingly, we hold that the portions of the land leased to private entities as well as those parts of the hospital leased to private individuals are not exempt from such taxes. On the other hand, the portions of the land occupied by the hospital and portions of the hospital used for its patients, whether paying or non-paying, are exempt from real property taxes.