



Republic of the Philippines  
**CENTRAL BOARD OF ASSESSMENT APPEALS**  
M a n i l a

**CAMARINES SUR III ELECTRIC  
COOPERATIVE, INC. (CASURECO III),**  
*Petitioner-Appellant,*

-versus-

**CBAA CASE NO. L - 86**  
Province of Camarines Sur

**THE LOCAL BOARD OF ASSESSMENT  
APPEALS OF THE PROVINCE OF  
CAMARINES SUR,**

*Appellee,*

-and-

**THE MUNICIPAL ASSESSOR OF  
BAAO, CAMARINES SUR,**  
*Respondent-Appellee.*

X-----X

## **DECISION**

This is an Appeal from the Decision of the Local Board of Assessment Appeals of the Province of Camarines Sur ("LBAA") dated February 11, 2008 in a case involving the herein Appellant's "Protest on Assessment of Real Property Tax" against the herein Respondent-Appellee.

As a background of this case, Petitioner CASURECO III is an electric cooperative duly organized and existing under the laws of the Philippines, and particularly created by virtue of P.D. 269, as amended, engaged in the business of electric power distribution to various end-users and consumers within its franchise area.

### **ANTECEDENTS**

1. On September 12, 2007, appellant herein received a Statement of Account on Real Property Tax from the Municipal Treasurer of Baao, Camarines Sur;

2. On November 12, 2007, appellant, acting through its General Manager Pedro M. Prestado, Jr., filed by way of registered mail a Memorandum of Appeal before the Board of Assessment Appeals of Camarines Sur;

3. On February 19, 2008, appellant received the assailed Decision from the said Board of Assessment Appeals dated February 11, 2008;

4. Appellant sent its Memorandum of Appeal to this Board by registered mail through the Buhi, Camarines Sur Post Office on March 14, 2008, which Appeal finally reached this Board on March 31, 2008; and

5. On April 29, 2008, this Board received the Answer of the Respondent Assessor.

Petitioner-Appellant said that it is “appealing the said Decision to this Honorable Central Board of Assessment Appeals on question of law” and raised the following issues:

“a) The Honorable Board of Assessment Appeals of Camarines Sur gravely erred in classifying the electric posts as real property that made them subject to real property tax;

“b) The Honorable Board of Assessment Appeals of Camarines Sur erred in departing from the decisions in the Board of Assessment Appeals versus Manila Electric Company, 119 Phil. 328, The Board of Assessment Appeals and City Treasurer of Quezon City versus Manila Electric Company (10 SCRA 68), and even the Caltex (Phil.) versus Central Board of Assessment Appeals (114 SCRA 296), in violation of the principle of *Stare Decisis*.

“c) The Honorable Board of Assessment Appeals of Camarines Sur failed to consider that the Municipality of Baao, acting through its Municipal Treasurer vis-à-vis with the assessment of the Municipal Assessor, is not authorized to levy real property tax on the subject properties of the appellant.

### **DISCUSSIONS**

#### **First Issue:**

**THE HONORABLE BOARD OF ASSESSMENT  
APPEALS OF CAMARINES SUR GRAVELY  
ERRED IN CLASSIFYING THE ELECTRIC**

**POSTS AS REAL PROPERTY THAT MADE  
THEM SUBJECT TO REAL PROPERTY TAX.**

Anent the first issue, Petitioner-Appellant argued as follows:

1. The determination by the Honorable Board of Assessment Appeals of Camarines Sur that the subject electric posts and transformers fall within the meaning of the term machinery under Section 199© (*sic*) of RA 7160 is not consistent with law and jurisprudence;
2. Assuming arguendo that electric posts and transformers are machineries, they are not considered machines (?) and should not therefore be assessed for real property tax; and
3. The special classes of properties (such as machineries and other improvements) only include the properties of "Government-owned or controlled corporation (GOCC) engaged in the supply and distribution of water and/or generation and transmission of electric power x x x. However, the enumeration does not include electric cooperatives, like herein appellant, for although it transmits electric power it is not considered a GOCC, although it was organized and created by virtue of P.D. 269, as amended. Thus, if the electric poles and transformers, classified by the appellees as machineries, are not include (*sic*) in Section 218, where shall the respective local sanggunians base the assessment levels of the alleged real properties of the appellant? The truth is that the electric poles and transformers owned by electric cooperatives, that include the appellant, should not be taxable for not being considered as real property (*sic*) under the pertinent provision of RA 7160.

The apparent confusion on the part of the Petitioner-Appellant is obviously caused by the action of respondent assessor in classifying the subject electrical poles and transformers as "**COMMERCIAL**" and yet applying the assessment level of **ten percent (10%)**. This assessment level, (10%), is applicable to real properties owned and used by Government-owned or – controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power as provided for under Section 218(d) of the LGC. Appellant asks: "Thus, if the electric poles and transformers, classified by the appellees as machineries, are not included in Section 218, where shall the respective local Sanggunians base the assessment levels of the alleged real properties of the appellant?"

A good question. Of course, the Assessment Level of **80%** for Commercial Machineries under Section 218(c) of the LGC should have been applied to the market value of the subject properties to determine their assessed values. A piece of real property classified as “**COMMERCIAL**” should never be assessed at the **10%** level, unless, of course, the Sangguniang Panlalawigan of Camarines Sur enacted an ordinance pegging the assessment level for Commercial Machineries at **10%**, which the said Sanggunian is perfectly allowed to do so.

**The Second Issue:**

**THE HONORABLE BOARD OF ASSESSMENT APPEALS OF CAMARINES SUR ERRED IN DEPARTING FROM THE DECISIONS IN THE BOARD OF ASSESSMENT APPEALS VERSUS MANILA ELECTRIC COMPANY, 119 PHIL. 328, THE BOARD OF ASSESSMENT APPEALS AND CITY TREASURER OF QUEZON CITY VERSUS MANILA ELECTRIC COMPANY (10 SCRA 68), AND EVEN THE CALTEX (PHIL.) VERSUS CENTRAL BOARD OF ASSESSMENT APPEALS (114 SCRA 296), IN VIOLATION OF THE PRINCIPLE OF *STARE DECISIS*.**

On the second issue, Petitioner-Appellant said that:

1. In the decision in the Caltex case, there was nothing stated that the Civil Code provision was amended and/or modified by the Local Government Code of 1991. The classification that the property is personal or real has been established in the Civil Code, a substantive law on the classification of real properties. The Local Government Code of 1991 only provides for the collection of the real property tax and what properties that should be taxed in connection therewith. The latter law only enumerates the real properties to be assessed and levied real property tax but did not distinguish what are real properties or what are personal properties. That distinction is aptly provided by the Civil Code; and
2. The Meralco case [*Board of Assessment Appeals vs. Manila Electric Co.* (199 Phil. 328)]“ is applicable to the subject electric poles and transformers of the appellant” and that the failure of the LBAA to adhere to the Meralco case constitute a violation of the principle of *stare decisis*.

We would like to invite the Appellant's attention to the *Repealing Clauses* of the LGC under its Section 534, particularly Clause (f) which provides, thus:

“(f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof, **which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.**” (Underscoring supplied)

Art. 415 of the New Civil Code, being inconsistent with the provisions of Section 199(o) of the LGC, was deemed repealed or modified accordingly when the LGC took effect on January 1, 1992.

In *CASURECO I vs. LBAA of Camarines Sur*<sup>1</sup>, we stated:

“Petitioner-Appellant's appeal relied solely on the Supreme Court's ruling in Board of Assessment Appeals, City Assessor and City Treasurer of Quezon City, vs. Manila Electric Company, L-15334, Jan. 31, 1964, that under Section (sic) 415 of the Civil Code poles are not real property (sic); they are personal property (sic), hence not subject to tax. Said decision however, was promulgated on Jan. 31, 1964 yet and is no longer obtaining with the passage of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC of 1991), which took effect on January 1, 1992.”

**The Third Issue:**

**THE HONORABLE BOARD OF ASSESSMENT APPEALS OF CAMARINES SUR FAILED TO CONSIDER THAT THE MUNICIPALITY OF BAAO, ACTING THROUGH ITS MUNICIPAL TREASURER VIS-À-VIS WITH THE ASSESSMENT OF THE MUNICIPAL ASSESSOR, IS NOT AUTHORIZED TO LEVY REAL PROPERTY TAX ON THE SUBJECT PROPERTIES OF THE APPELLANT.**

On the third and last issue, Petitioner-appellant maintains that, although raised for the first time, the same issue is so raised on appeal purely on question of law; and that, under the provisions of Section 232 of the Local

---

<sup>1</sup> CBAA Case No. L-76, May 31, 2011.

Government Code ("LGC"), the Municipality of Baao or its Assessor or its Treasurer is not authorized to levy real property tax.

If appellant would look at its Annexes "B" to "L" attached to its Memorandum of Appeal filed with the LBAA, it would find that on the dorsal portions of said annexes (Real Property Field Appraisal & Assessment Sheets) there appear the signatures of the Municipal Assessor, recommending approval of the assessments, and the signatures of the Provincial Assessor, as the approving officer. The subject assessments, ultimately, were acts made by the Provincial Assessor of Camarines Sur, acting for and on behalf of said province.

WHEREFORE, premises considered, the instant Appeal is hereby DISMISSED for lack of merit.

SO ORDERED.

Manila, Philippines, August 28, 2012.

SIGNED  
**OFELIA A. MARQUEZ**  
Chairman

Abstained  
**ROBERTO D. GEOTINA**  
Member

SIGNED  
**CAMILO L. MONTENEGRO**  
Member