

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

MUNICIPAL ASSESSOR OF
LIBMANAN, CAMARINES SUR,
Respondent-Appellant,

CBAA CASE NO. L – 87

-versus-

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

-and-

VICTOR P. BICHARA, JR.,
Petitioner-Appellee.

X-----X

DECISION

On March 31, 2008, Minnie Jo R. Duran, describing herself as Municipal Assessor of Libmanan, Camarines Sur filed an Appeal before this Board, dated March 14, 2008, against Victor P. Bichara, Jr., and the Local Board of Assessment Appeals (LBAA of Camarines Sur). The Appeal was docketed as CBAA Case No. L-87.

The Appeal sought to “reverse and set aside the Decision dated February 8, 2008 of the Local Board of Assessment Appeals of Camarines Sur and the assessment made by the appellant Municipal Assessor of Libmanan, Camarines Sur be upheld as correct”.

The “Statement of Facts” of herein Appeal contained the following:

1. "On December 31, 2004 petitioner-appellee Victor P. Bichara, Jr. applied for a building permit. On March 4, 2008, he requested for the cancellation of ARP No. 97-030-00004 for the very reason that the building was demolished."

2. "On January 18, 2008, the appellant re-appraised and re-assessed the subject property and on the same date, the same was indorsed to the Provincial Assessor's Office. Said assessment was approved by the Assistant Provincial Assessor on January 22, 2007. Subject property is now under ARP No. 97-030-00299 which has a market value of Three Million Five Hundred Forty Four Thousand and Forty Seven Pesos (P3,544,047.00) and with assessed value of Two Million Four Hundred Eighty Thousand and Eight Hundred Thirty Pesos (P2,480,830.00)".

The Municipal Assessor of Libmanan, Camarines Sur alleged that "(f)rom the time of filing of the petition/appeal by the private appellee on April 2, 2007 before the Local Board of Assessment Appeals, Province of Camarines Sur, appellant was denied of due process for having not furnished a copy of the petition/appeal and other processes of the LBAA. When the LBAA of Camarines Sur allegedly conducted an ocular inspection, herein appellant was not even notified of said inspection. To her surprise, she only received the Decision of the appellee LBAA of Camarines Sur dated February 8, 2008 on February 19, 2008". She raised the following issues:

- "1. Whether or not the appellant was denied of due process.
- "2. Whether or not appellee LBAA of Camarines Sur erred in finding the assessment of said building as Type II-B and mezzanine.
- "3. Whether or not appellee LBAA of Camarines Sur erred in finding that the building cannot be classified as New Construction.
- "4. Whether or not appellee LBAA of Camarines Sur erred in reducing the assessment of subject property by way of depreciation.
- "5. Whether or not appellee LBAA of Camarines Sur erred in entertaining the Petition/Appeal of appellee Bichara, Jr. who did not first pay the assessed real property tax."

The Decision of the LBAA of Camarines Sur is hereby reproduced to wit:

"For consideration is a verified Petition filed before this Board by **VICTOR P. BICHARA, JR.**, owner of a commercial building situated at
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Libod, Libmanan, Camarines Sur, questioning the assessment and appraisal made by the Municipal Assessor of Libmanan on the building and praying for re-assessment and re-appraisal.

THE FACTS:

Petitioner is the owner of a commercial building built in 1982 and was formerly used as a movie house under the business name, *Connie Theater*.

Petitioner filed an application for building permit for the renovation of the building and it was approved on December 2004. In the early part of 2005, renovation work started converting the premises of the building into commercial spaces/stalls with wooden partitions available for lease to prospective lessees. No major repair or alteration was made on the building, only the façade was converted into commercial spaces.

Upon completion of the renovation work, the building was issued a new tax declaration, **A.R.P. No. 97-030-00299** with new assessment and appraisal. The notice of assessment was received by petitioner on 23 February 2007.

Under the new assessment and appraisal, the building was considered by Respondent, Municipal Assessor of Libmanan as **NEW CONSTRUCTION** and classified the same under **SECTION 25-A, TYPE I-B** of Resolution No. 083 and Ordinance No. 015, series of 1977 of the Sangguniang Panlalawigan of Camarines Sur.

Not satisfied with the new assessment and appraisal and with the classification given by respondent, herein petitioner filed an Appeal/Petition on 2 April 2007 before the Local Board asking for re-assessment and re-appraisal of the subject property.

THE ISSUE:

The ISSUE to be resolved in this Appeal is whether the commercial building owned by Petitioner and declared under **ARP No. 97-030-00299** should be classified and assessed under **SECTION 25-A, TYPE 1-B of Resolution No. 083 and Ordinance No. 015, series of 1997 of the Sangguniang Panlalawigan of Camarines Sur**, or should it be given another classification so as to justify the re-assessment and re-appraisal being prayed for by petitioner.

RESPONDENT'S CONTENTION: In the new assessment and appraisal of the building under **ARP No. 97-030-00299**, the Respondent considered the property as **NEW CONSTRUCTION** taking into consideration the use of concrete materials on the structures of the building and the presence of newly-constructed parts, such as additional columns, footings, beams, concrete flooring and floor slabs for the mezzanine. Thus, the building was classified under **SECTION 25-A, TYPE I-B (Reinforced Concrete)** of the Resolution and Ordinance.

PETITIONER'S CONTENTION: The building declared under **ARP No. 97-030-00299** was merely renovated/remodeled into commercial spaces/stalls for lease, with the use of mixed materials. The fact that the approved building permit was for **RENOVATION**, the building should have been classified under **SECTION 25-A, TYPE II-B (Mixed Materials)**.

The following are the **JUSTIFICATIONS** given by Petitioner:

1. The TRUSSES FRAMES of the building are made of **WOODEN MATERIALS** and not STEEL;
2. The ROOFING is made of **G.I. SHEETS**;
3. The STAIRS leading to the MEZZANINE floor are made of **WOODEN MATERIALS** not cement or concrete;

4. The partition wall of the various stalls or commercial spaces is made of PLYWOOD and WOODEN MATERIALS and not Hollow Blocks;
5. In the renovation of the building, partition walls were set up to convert the premises into commercial space/stalls;
6. Six (6) concrete columns from the old structure were utilized for the mezzanine.

That it was also erroneous for respondent to consider the building as a two-storey structure for while the building has a second floor, it is actually a mezzanine which can be used and utilized by lessees of the ground floor stalls as storage room since it can no longer be leased as separate commercial space.

RULING:

Under the Local Government Code, real properties has to be classified and schedule of values prescribed through an Ordinance passed by the Sangguniang Panlalawigan. Thus, Resolution No. 083 and Ordinance No. 015 was passed by the Sangguniang Panlalawigan of Camarines Sur.

SECTION 25-A of the Resolution and Ordinance provides for the classification of Buildings and Other Structures as:

TYPE I – REINFORCED (sic) CONCRETE

- A. The whole structure (columns, beams, walls, floors, and roofing) is reinforced concrete.
- B. Same as “A” but walls are of concrete hollow blocks (CHB).

SECTION 25-TYPE I-B was the classification given to the building by Respondent because of the use of concrete materials on the building as **NEW CONSTRUCTION**. To be classified under **SECTION 25-A, TYPE I-A or I-B**, it is required that **ALL PARTS** of the building or the whole structure should be of **CONCRETE MATERIALS** (*reinforced concrete*).

TYPE II – MIXED MATERIALS (Concrete and high grade woods)

- A. x x x x x
- B. Reinforced concrete columns and beams; concrete bath and toilet, and ground floorings, CHB walls and partitions in ground levels; Standard class wooden girders, beams and joists, structural framings; Class “B” wooden upper flooring, structural and roof framings; and tiles or G.I. sheet roofing materials.
- C. x x x x x,

Petitioner's contention was that the building should have been classified under **SECTION 25-A, TYPE II-B** because of the use of mixed materials in the renovation work.

To resolve the issue on the proper classification of the building, an ocular inspection was conducted by the Board and findings revealed that the subject property has the following actual structural characteristics:

1. Columns – concrete
2. Footings – concrete
3. Beams – concrete, wooden
4. Truss Framing-wood
5. Roofing – G.I. Sheets
6. Exterior Walls – old walls of Connie Theater
7. Flooring – concrete
8. Ceiling – Plywood
9. Stairs – wood
10. Partitions – wood
11. Wall finish – plain cement

The evidence submitted by Petitioner and the ocular inspection conducted by the Board on the subject property showed and revealed the existence and the use of **wooden materials** on the building. Since the materials used are not entirely of concrete materials, the subject property should be classified under **SECTION 25-A, TYPE II-B**, on the use of **MIXED MATERIALS (Concrete and high grade woods)**. Significantly, the subject property cannot also be classified as **NEW CONSTRUCTION** since there was no alteration nor change in the original structures of the building and the building officials concerned has approved the application for building permit under the category of **RENOVATION**.

The classification of real properties and the schedule of values prescribed through an Ordinance passed by the Sangguniang Panlalawigan cannot operate to deprive the owner of his right to dispute the classification by proving otherwise. To deprive him of this right would be to deny him due process in violation of the Constitution. Thus, when an owner of a real property protests the assessment, he can present evidence so as to question the assessment and appraisal made by the Municipal Assessor.

WHEREFORE, premises considered, the re-assessment and re-appraisal prayed for by Petitioner is hereby **GRANTED**. Consequently, respondent Municipal Assessor of Libmanan is hereby ordered to make a

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new assessment and appraisal of the property declared under **ARP No. 97-030-00299**,

SO ORDERED.

Given this 8th day of February, 2008 at Naga City, Philippines.

(Signed)
ATTY. VICTORIANO D. CAUBANG II
Registrar of Deeds, Camarines Sur
Chairman, Local Board of Assessment Appeals

(Signed)
PROS. AGAPITO B. ROSALES

(Signed)
ENGR. JOSEFINA S. GARDINER

On January 22, 2009 Petitioner-Appellee filed a Motion to Dismiss

Appeal on the following grounds:

First Ground:

“Appellant Municipal Assessor of Libmanan, Camarines Sur is devoid of the right to interpose appeal from the decision of the Local Board of Assessment Appeals>’

Petitioner-Appellee cited Article 320 (c) of the Implementing Rules and Regulations of Republic Act No. 7160 which reads:

“(c) **The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor or municipal assessor within MMA with a copy of the decision of the board.** In case the provincial or city assessor or municipal assessor within MMA concurs with the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the board, may within thirty (30) days after receipt of the decision of said board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.” (Underscoring supplied)

Hence, “(c)leary, the appeal from the Local Board of Assessment Appeals may only be made: (1) by the owner of the property or the person having legal interest therein, and (2) by the provincial or city assessor or by the municipal assessor within Metro Manila Area (MMA).

Second Ground:

“Assuming arguendo that appellant has the right to appeal, nonetheless she lost said right, the appeal having been made outside or beyond the thirty-day reglementary appeal period.”

Pursuant to the declared policy of the Supreme Court on Amicable Settlement of Cases; enhanced by the passage of R.A. 9285, “AN ACT TO INSTITUTIONALIZE THE USE OF AN ALTERNATIVE DISPUTE RESOLUTION SYSTEM IN THE PHILIPPINES AND TO ESTABLISH THE OFFICE FOR ALTERNATIVE DISPUTE RESOLUTION, AND FOR OTHER PURPOSES”, of April 2, 2004 and E.O. 523, “Alternative Dispute Resolution in the Executive Department, of April 7, 2006 and believing that the herein case is

a good subject for an Amicable Settlement, we encouraged and urged petitioner-appellee, Victor P. Bichara, Jr. to enter into a Compromise Agreement with the Provincial Assessor of Camarines Sur by delegating authority thereto to herein Municipal Assessor of Libmanan, Camarines Sur by dint of her involvement into the case.

The Compromise Agreement was reached and submitted to this Board on January 18, 2010. The same is reproduced herewith as follows:

COMPROMISE AGREEMENT

PARTIES, duly assisted and represented by their respective counsels, and in accordance with their manifestations during the hearing of the above-entitled case on January 23, 2009, to enter into a Compromise Agreement, unto this Honorable Board, most respectfully aver that:

Per request of appellee Victor Bichara to Mrs. Anecita V. Malali, Provincial Assessor of Camarines Sur, an ocular inspection of the subject building was conducted by the parties, Atty. Janis Ian Regaspi-Cleofe, Mrs. Malali, and two of her staff, for the purpose of determining its correct and true valuation;

As a result of the ocular inspection, the appellant made and proposed Recomputation/Revision of Assessment of Bichara Arcade located at Libod No. 1, Libmanan, Camarines Sur, Xerox copy attached as Annex "A";

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The proposed Re-computation/Revision is with the conformity of appellee Bichara;

The proposed assessed value of the subject building is Two Million Eighty Six Thousand Three Hundred Seventy (P2,086,370.00) Pesos and its corresponding total tax liability is Forty One Thousand Seven Hundred Twenty Seven Pesos and Forty Centavos (P41,727.40) per annum;

This compromise agreement, not being contrary to law, morals, good customs and public policy, the PARTIES have agreed the same for the approval of this Honorable Board;

WHEREFORE, it is respectfully prayed that this Compromise Agreement be approved by this Honorable Board.

May 08, 2009, Naga City for Manila, Philippines.

(Signed)
MINNIE JO R. DURAN
Appellant, Municipal Assessor
Libmanan, Camarines Sur

(Signed)
VICTOR P. BICHARA, JR.
Appellee
Naga City

Conforme:

(Signed)
ANECITA V. MALALI
Provincial Assessor
Camarines Sur

Assisted By:

(Signed)

JANIS IAN B. REGASPI-CLEOFE
Counsel for Appellant
Legal Officer IV, Prov'l Attorney's Office
Capitol Complex, Cadlan
Pili, Camarines Sur
Attorney's Roll No. 48754
IBP No. 766420/Cam. Sur/Jan. 7, 2009
PTR No. 0705625/Pili, CSur/Jan 6, 2009
MCLE No. II-0011223;Aug 21, 2008

(Signed)

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Attorney's Roll No. 39708; April 27, 1995
IBP No. 744637/Cam. Sur/Jan. 5, 2009
PTR No. 344705A/Naga City/Jan. 5, 2009
MCLE No. II-0012189/Nov. 17, 2008

SUBSCRIBED AND SWORN to before me in the City of Naga, Philippines, this 31st day of December 2009 by Minnie Jo R. Duran, Victor P. Bichara, Jr. and Anecita V. Malali, who have satisfactorily proven their respective identities to me through their above stated identification documents valid to date, that they are the same persons who personally signed the foregoing Amicable Settlement before me and acknowledged that they executed the same.

TIRSO P. MARIANO

Notary Public

Commission Expires on Dec. 31, 2010
IBP No. 744542 Oct. 14, 2008, Naga City
PTR No. 401456 Jan. 5, 2009, Cam. Sur
Roll of Attorney No. 12393

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WHEREFORE, the same Compromise Agreement is hereby approved.

The Provincial Assessor or her Deputy is ordered to act accordingly.

SO ORDERED.

Manila, Philippines, February 8, 2010.

(Signed)

CESAR S. GUTIERREZ
Chairman

(Signed)

ANGEL P. PALOMARES
Member

(Signed)

RAFAEL O. CORTES
Member