

Republic of the Philippines  
**CENTRAL BOARD OF ASSESSMENT APPEALS**  
Manila

PROVINCIAL ASSESSOR OF CAMIGUIN,  
Respondent-Appellant,

- versus -

LOCAL BOARD OF ASSESSMENT APPEALS  
OF CAMIGUIN,

Appellee,

- and -

PAUL C. DAGONDON,  
Petitioner--Appellee.

X ----- X

CBAA CASE NO. M-08  
Re: APPEAL FOR REVISION  
EXCESSIVE ASSESS-  
MENT OF REAL PRO-  
PERTIES,  
LBAA CASE NO. 3  
PROVINCE OF CAMIGUIN

**R E S O L U T I O N**

This concerns the Petition for Reconsideration (dated May 29, 1997 and received by this Board on June 23, 1997) and the two Addenda thereto (dated June 3, 1997 and July 7, 1997) filed by Petitioner-Appellee, Mr. Paul C. Dagondon, seeking reconsideration of this Board's Decision rendered in the above-entitled case on August 1, 1996. Respondent-Appellee prays of this Board that:

"1. The appeal filed by respondent Provincial Assessor of Camiguin be declared null and void, for not having followed the legal requirements of furnishing the petitioner-appellee and appellee copy of the appeal;

"2. The Decision of the Central Board be also declared as null and void for having resulted from an invalid appeal, therefore an exercise in excess of its authority and jurisdiction;

"3. Judgment be rendered infavor of the petitioner-appellee and against the respondent, upholding the decision/resolution of the LBAA of Camiguin dated March 22, 1995;

4. Judgment be made declaring as illegal the increases made in the market values of real properties situated in the Municipality of Mambajao, Camiguin, starting the year 1994, for lack of the required public hearings and publication in a newspaper of general circulation; likewise, the rate of changes are deemed excessive, unjust, exorbitant and confiscatory, a violation of the fundamental principles of real estate taxation as provided for in the Local Government Code of 1991, RA No. 7160;

"5. Such other reliefs that are deemed just and equitable under the circumstances at the discretion of the Board."

Petitioner-Appellee raised in his petition the following issues, to wit:

"1. Whether or not the appeal filed by respondent-appellant Provincial Assessor of Camiguin direct to the CBAA Mindanao Field Office was

procedurally correct/in order, or in accordance with the Rules and Regulations of the Board, consequently, whether the CBAA has acquired jurisdiction over the case, therefore, has exercised in excess of their jurisdiction.

“2. Whether or not the appeal filed by the respondent-appellant violated the legal rights of the herein petitioner-appellee and appellee LBAA, therefore null and void, the fact that these parties were not furnished with a copy of the appeal, with a manifestation that the appeal was made within the reglementary period and the parties duly furnished with a copy of the same.

“3. Whether or not the CBAA erred in rendering a decision reversing the decision of the LBAA of Camiguin in the matter of excessive increase in the market values of the different real properties, despite the absence of verification by both the LBAA and CBAA, that public hearings re. the proposed increases were in fact made and the covering ordinance duly published in a newspaper of general circulation.

“4. Whether or not the amount of increases in the market values of the different real properties within the Municipality of Mambajao, Camiguin Province, taking effect in 1994, are in accordance with the guidelines as provided for by law, RA No. 7160.

“5. Whether or not the ordinance adopting the general revisions of property assessments, implemented in year 1994, acquired legality despite the non-publication of the schedule of fair market values of real properties in a newspaper of general circulation, a condition precedent as required under Article No. 303 of the implementing Rules and Regulations of the Local Government Code of 1991, RA 7160, before an ordinance can be enacted.”

On the first issue, Petitioner-Appellee contends that, before Respondent-Appellant could appeal the LBAA’s decision to the CBAA, he (Respondent-Appellant) must first ask the LBAA for reconsideration and, since he did not do so, his appeal to the CBAA was null and void, and consequently, the CBAA did not acquire jurisdiction over the case or had no authority to entertain the appeal.

Nowhere in the rules of procedure before this Board, not even in the Revised Rules of Court in the Philippines, is it provided that a motion for reconsideration is a condition precedent to the filing of an appeal. The Respondent-Appellant had the sole prerogative of whether or not to ask the LBAA for a reconsideration of the LBAA’s decision. At any rate, proceedings in this Board are conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.

During the hearing of this case in Cagayan de Oro City on August 27, 1995 Petitioner-Appellee, Mr. Paul C. Dagondon, was present. The Local Board was represented by Mr. Vivares, albeit his presence in the hearing was not really required. Neither Mr. Dagondon nor Mr. Vivares raised the issue of lack of jurisdiction due to the alleged failure of Respondent-Appellant to ask the LBAA

for reconsideration of the LBAA's decision. Instead, Mr. Dagondon and Mr. Vivares participated lively in the said hearing. (T.S.N., August 27, 1995)

Even granting, arguendo, that this Board has no jurisdiction over the instant case due to the alleged failure of Respondent-Appellant to ask the LBAA for a reconsideration, the Petitioner-Appellee is barred by estoppel from raising the question. Thus, the Supreme Court, in *Benguet Corporation vs. Central Board of Assessment Appeals, et al.* (G.R. No. 10059, June 29, 1992), said:

“(a) The Solicitor General observes that the petitioner is estopped from raising the question of lack of jurisdiction to issue the challenged assessments inasmuch as it was never raised before, hence, not passed upon by the municipal and provincial assessors, LBAA and CBAA. This observation is well taken. The rule that the issue of jurisdiction over a subject matter may be raised anytime, even during appeal, has been qualified where its application results in mockery of the tenets of fair play, as in this case when the issue could have been disposed of earlier and more authoritatively by any of the respondents who are supposed to be experts in the field of realty assessments. As we held in *Suarez v. Court of Appeals* (G.R. No. 80199, June 5, 1990, 186 SCRA 339):

“x x x x It is settled that any decision rendered without jurisdiction is a total nullity and must be struck down at any time, even on appeal before this Court. The only exception is where the party raising the issue is barred by estoppel (*Tijam v. Sibonghanoy, ee SCRA 29*, reiterated in *Solid Homes, Inc. vs. Payawal and Court of Appeals*, G.R. No. 84811, August 29, 1989).

“While petitioner could have prevented the trial court from exercising jurisdiction over the case by seasonably taking exception thereto, they instead invoked the very same jurisdiction by filing an answer and seeking affirmative relief from it. **What is more, they participated in the trial of the case by cross-examining respondent. Upon the premises, petitioner cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily** (*Tijam v. Sibonghanoy, supra.*)” (Underscoring supplied)

On second issue, Petitioner-Appellee alleged that neither he nor the LBAA were furnished by Respondent-Appellant with copies of the appeal and, for that reason, the appeal should have been deemed as not having been filed at all.

This Board, after receipt of the appeal by Respondent-Appellant, advised in writing the Appellee Local Board of the fact of the filing of the same appeal and to send forthwith the original records of the case to this Board. Both Petitioner-Appellee and Respondent-Appellant were furnished copies of the said written advice.

As stated hereinabove, Petitioner-Appellee, Mr. Paul C. Dagondon, and Mr. Vivares, representing the Local Board, were present during the hearing of

this case in Cagayan de Oro City on August 27, 1995. Neither Mr. Dagondon nor Mr. Vivares raised the issue of the alleged failure of Respondent-Appellant to furnish copies of the appeal to Mr. Dagondon or the Local Board. Instead, Mr. Dagondon and Mr. Vivares participated lively in the said hearing. For the same reasons as in the first issue, Petitioner-Appellee is now estopped from raising the second issue.

On the third issue, Petitioner-Appellee stated that the Schedule of Market Values and the ordinance adopting it were both null and void for not being published in a newspaper of general circulation.

Section 2, Local Assessment Regulations No., 1-92 (Rules and Regulations Relative to the Conduct of General Revision of Real Property Assessments Pursuant to Section 201 and 219 of R.A. 7160, otherwise known as the Local Government Code of 1991) states that Activity No. 6 shall be the “Publication of the Schedules in the newspaper of general circulation in the locality **or posting in the Provincial Capitol, City or Municipal Hall and in two other conspicuous public places**” by the “Sanggunian concerned Not later than February 29 of the second year.” (Underscoring supplied)

As clearly stated above, “posting in the Provincial Capitol, City or Municipal Hall and in two other conspicuous places” would suffice in view of the conjunction “or”. Annex “CBAA-F” to Petitioner-Appellee’s petition for reconsideration, which is a letter from the Secretary to the Sanggunian of Camiguin to Petitioner-Appellee, states:

“March 25, 1997

“MR. PAUL C. DAGONDON  
“President  
“Mambajao, Camiguin

“Dear Mr. Dagondon,

“This has reference to your letter dated February 21, 1997 to our office for comment on the Implementation of Provincial Ordinance No. 01, enacted in 1992 and implemented in 1994. The Ordinance has been posted to conspicuous places for three (3) consecutive as required by law.

“Attached herein is also a machine copy of Resolution No. 02 with Ordinance No. 1, Series of 1992 and the Indorsement letter from the Provincial Assessor’s Office.

“Please feel free to call our office for future reference/request.

“Very truly yours,

SGD: “ESTRELLA LL. MARBELLA  
“Secretary to the Sanggunian”

The “Indorsement” mentioned in the abovequoted letter was from Mr. Justines S. Tia, Provincial Assessor of Camiguin, and stated thus:

“Respectfully returned to the Secretary of the Sanggunian, this province, the herein letter of Mr. Paul C. Dagondon with the information that in the process of the preparation of the Schedule of Market Value, this Office thru its five municipal assessors has posted the proposed Schedule of Market Value in conspicuous places in their respective municipality. It is further informed that Ordinance No. 1, series of 1992 was Implemented, January 1, 1994.”

As stated in our decision dated August 1, 1996, we have consistently held that there is a legal presumption that official duty has been regularly performed [Rule 131, Sec. 3(m), Revised Rules of Court]. This presumption ceases to exist only at the moment competent and substantial evidence is presented to rebut the prima facie case of accuracy (City Assessor of Pasay City vs. BAA of Pasay City & Camama, CBAA Case No. 37, Jan. 21, 1975; City Assessor of Cagayan de Oro City vs. BAA of Cagayan de Oro & Macaranas, CBAA Case No. 41, April 19, 1976; Tirol vs. BAA & Provincial Assessor of Capiz, CBAA Case No. 52, April 19, 1976; Dulay vs. BAA & City Assessor of Naga City, CBAA Case No. 234, Sept. 5, 1988). No such evidence was presented.

On the fourth issue, Petitioner-Appellee contends that the market values of his properties effective 1994 are unjust, inequitable, excessive, oppressive, and confiscatory and that the LGU did not evolve a progressive system of taxation.

This issue had been thoroughly considered and disposed of in our decision dated August 1, 1996. In *Reyes, et al. v. Almansor, et al.* (G.R. Nos. L-49839-46), the Supreme Court observed that “taxation is said to be equitable when its burden falls on those better able to pay. Taxation is progressive when its rate goes up depending on the resources of the person affected.”

Market value is defined as the highest price estimated in terms of money which the property will bring if exposed in the open market allowing it reasonable

time to find a purchaser who buys with knowledge of all the uses in which it is adapted and for which it is capable of being used. It is also referred to as the price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure (Sec. 3, PD 464). It is also defined as the most probable price in terms of money which property should bring in competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus (Real Property Terminology, pp. 100-101).

Sec. 199(1), RA 7160, defines "Fair Market Values" as "the price at which a property may be sold by a seller who is not compelled to sell and bought by a buyer who is not compelled to buy." Just because the market values in 1991 of the subject properties were increased in 1994 by a minimum of 128%, it does not necessarily follow that the 1994 market values are not the true and fair market values.

On the fifth and last issue, Petitioner-Appellant maintains that the ordinance adopting the schedule of market values effective 1994 is illegal for not having been published in a newspaper of general circulation as mandated by Article No. 303 of the implementing Rules and Regulations of the Local Government Code of 1991, RA No. 7160.

This issue is essentially the same as the third issue, already discussed above and dealt with in our decision dated August 1, 1996.

WHEREFORE, Petitioner-Appellee's instant petition for reconsideration is hereby DISMISSED for lack of merit.

Manila, Philippines, March 5, 1998

*(Signed)*  
MARGARITA G. MAGISTRADO  
Chairman

*(Signed)*  
ANGEL P. PALOMARES  
Member

*(Signed)*  
BENJAMIN M. KASALA  
Member