

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

PALAWAN ELECTRIC COOPERATIVE  
(PALECO),

Petitioner-

Appellant,

CBAA CASE NO. L – 75

-versus-

THE LOCAL BOARD OF ASSESSMENT  
APPEALS OF THE PROVINCE OF  
PALAWAN,

Appellee,

-and-

THE PROVINCIAL ASSESSOR OF  
PALAWAN AND THE MUNICIPAL  
ASSESSOR OF BROOKE'S POINT,  
PALAWAN,

Respondents-

Appellees.

X-----X

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

BEFORE US, is a Motion, sent by Petitioner-Appellant via registered mail on July 23, 2007 and received by this Board on July 30, 2007, seeking a reconsideration of this Board's Decision dated June 28, 2007.

Alleging that it received a copy of the said Decision on July 13, 2007, Petitioner-Appellant bases its Motion on the following grounds, to wit:

- a) **WITH DUE RESPECT, THE PROVISION OF SECTION 199 PARAGRAPH O OF RA NO. 7160 NOTWITHSTANDING DOES NOT MODIFY THE PROVISION OF ARTICLE 415 ITEM 5 OF THE CIVIL CODE OF THE PHILIPPINES NOR CONVERT THE ELECTRIC POST, TRANSMISSION/DISTRIBUTION LINES FROM PERSONAL PROPERTIES TO REAL PROPERTIES;**
- b) **WITH DUE RESPECT, THE PROVISION OF SECTION 199 PARAGRAPH O OF RA NO. 7160 DID NOT RENDER OBSOLETE THE DECISION OF THE HONORABLE SUPREME COURT RENDERED IN THE CASE BOARD OF ASSESSMENT APPEALS, Q.C. VS. MERALCO 910 SCRA 68) (sic).**

In his Opposition to the Motion for Reconsideration dated July 24, 2007 and received by this Board on August 6, 2007, Respondent Provincial Assessor

of Palawan, in moving for the denial of Petitioner's Motion for Reconsideration, by counsel, alleged that he was served a copy of said motion on July 23, 2007 without any notice of hearing. Respondent prays that this Board deny said motion for being in violation of Section 4, Rule 15, of the Rules of Court.

The position of Respondent-Appellee Provincial Assessor is untenable. As correctly pointed out by Petitioner-Appellant, the Rules of Court of the Philippines may apply only in the absence of any applicable provision in the Rules of Procedure Before the Central Board of Assessment Appeals ("CBAA Rules" for brevity). Section 3, Rule 1 of the CBAA Rules provides:

"SEC. 3. **Suppletory Application of the Rules of Court.** – In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Local Government Code of 1991, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect."

Motions for Reconsideration are governed by Section 5, Rule V of the CBAA Rules, thus:

"SEC. 5. Action Taken on Motion for Reconsideration. – The motion for reconsideration, as well as the opposition thereto, which shall embody all the arguments in support thereof, shall be set by the Central Board for hearing on the next "Motion Day". Upon the expiration of the period set forth in the preceding section of this rule without opposition having been filed, the motion for reconsideration shall be considered submitted for resolution by the Central Board, unless the Board deems it necessary to hear oral arguments, in which case, the Central Board shall issue the proper order."

Petitioner-Appellant's arguments follow:

a. That "the provision of Section 199 paragraph O of RA No. 7160 otherwise known as the Local Government Code of 1991 does not modify the provision of Article 415 item 5 of the Civil Code of the Philippines nor convert the electric post, transmission/distribution lines from personal properties to real properties. In like manner, it is most respectfully submitted, with due respect, that Section 1991 (*sic*) paragraph O of the Local Government Code of 1991 did not render obsolete the decision of the Honorable Supreme Court in the case of Board of Assessment Appeals Q.C. vs. MERALCO (10 SCRA 68)"; that "Section 199 paragraph O of the Local Government Code of 1991 merely defines and describes what embraces (*sic*) and what are included in the term "machinery". It is clear from the provision of Section 199 of the Local Government Code of 1991 which provides:

x x x

b. "Clear from the provision of Section 199 paragraph O of the Local Government Code, it does not classify nor describe that the "machinery" as defined in the said section is real property"; and that "On the other hand Article 415 of the Civil Code of the Philippines enumerated and classified properties which are removable properties."

Briefly stated, Petitioner-Appellant's contention is that, since its electric posts and transmission/distribution lines are neither defined as "real properties" under Section 199(o) of Rep. Act No. 7160, nor enumerated as among the "immovables" under Article 415 of the New Civil Code of the Philippines, the same items should be considered as "personal properties" which should not, therefore, be subject to payment of the real property tax.

We cannot support such contention. Since Section 199(o) of Rep. Act No. 7160 clearly describes the properties which are subject to the realty tax, there is no justification to resort to the Civil Code. It is a familiar phenomenon to see things classed as real property for purposes of taxation which, on general principle, might be considered personal property. No less than the Supreme Court stated this in *Standard Oil Co. of New York vs. Jaramillo* (44 Phil 630; see also *Manila Electric Company vs. the City Assessor and City Treasurer of Lucena City*, CA-G.R. SP No. 67027, May 13, 2004, citing *Caltex (Phil.) Inc. vs. Central Board of Assessment Appeals*, 114 SCRA 296, 301-302).

At any rate, this matter had been thoroughly discussed in our decision of June 28, 2007.

WHEREFORE, there being no cogent reason to disturb our said Decision, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Manila, Philippines, September 18, 2007.

(Signed)  
CESAR S. GUTIERREZ  
Chairman

(Signed)  
ANGEL P. PALOMARES  
Member

(Signed)  
RAFAEL O. CORTES  
Member