

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

COTABATO ELECTRIC COOPERATIVE,
REP. BY:

ALEJANDRO COLLADOS
OIC General Manager,
Petitioner-Appellant,

CBAA CASE NO. M-24

-versus-

LOCAL BOARD OF ASSESSMENT
APPEALS, COTABATO PROVINCE,
Appellee,

-and-

MUNICIPAL ASSESSOR/TREASURER OF
MAKILALA, MAGPET, PRESIDENT
ROXAS, ALL OF THE PROVINCE OF
COTABATO,

Respondents-Appellees.

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R E S O L U T I O N

This Board rendered a Decision in the above-entitled case on October 2, 2007 denying the appeal of Petitioner-Appellant for lack of merit. As a consequence, Petitioner-Appellant filed a motion for reconsideration on November 5, 2007 by registered mail and received by this Board on November 8, 2007, alleging with similar others that they received a copy of the Decision on October 25, 2007.

On the other hand, the Deputy Provincial Assessor and concurrent Municipal Assessor of Makilala forwarded to the Chairman of this Board a letter dated October 30, 2007 together with machine copies of the Transmittal of the Notice of Assessment of Real Property, newly approved Tax Declarations, post office registry receipt, return card showing receipt of petitioner-appellant.

Other than the facts herein stated all other facts have been incorporated in our decision.

Verily, this Board regrets to note the letter of the Deputy Provincial Assessor and concurrent Municipal Assessor of Makilalal, with enclosures, as set of facts which should have been presented at the Local Board below and **through counsel**. These are evidentiary matters which could have been appropriately presented at the trial stage.

Nonetheless, the core of the first issue is whether the appeal to the LBAA conformed to the requirements of Section 226 of R.A. 7160 and Article 317 of its Implementing Rules and Regulations of the same Act which require a notice of assessment. Such notice to be sufficient in form and substance should have **forewarned** the taxpayer of the consequences of non-compliance and should have **informed** them of their rights available in the event they are not satisfied with the assessment. The subject notice of assessment, unfortunately, is not what is contemplated by the law.

Anent the subject of this motion which petitioner-appellant seeks to reconsider, that is, whether steel towers, electric poles, transmission lines and transformers are real properties or personal properties classified as realty for purposes of taxation.

A perusal of the motion for reconsideration, however, would reveal it was not properly served or that it was not served at all to the respondents-appellees, either by registered mail or by personal service, as required by the Rules of Court as being supplementary to the rules of procedure before this Board. Section 13, Rule 13 of the 1997 Rules of Civil Procedure requires proof of either personal service or service by registered mail which we quote, **THUS:**

“Section 13. Proof of Service. – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 7 of this Rule. If service is made of registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.”

Although the said motion for reconsideration contained a certain Mely Pinion's proof of service, subscribed and sworn to before notary public, Henry Y. Mudanza, counsel of the petitioner-appellant, it is, however, unfilled and unsigned. The proof of service neither contained a full statement of the date, place and manner of service, or the registry receipt issued by the mailing office.

The Rules of Procedure Before this Board do not specifically provide for proof of service. So in its absence, the pertinent provisions of the Revised Rules of Court may be applied in suppletory character and in effect in all proceedings without strictly adhering to the technical rules of evidence (Section 3, Rule 1). But we cannot altogether discard the rules when it will distort substantial rights of the other party to refute the allegations contained therein. Otherwise, we are putting in mockery their constitutional right to procedural due process.

Thus, "procedural rules are not, however, to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in insuring the effective enforcement of substantive rights by providing for a system under which suitors may be heard in peaceful confrontation before a judge whose authority they acknowledge. x x x" (Santos vs. Court of Appeal, G.R. No. 92862, July 4, 1991, 198, SCRA 806, cited in Herrera, Remedial Law, 2000 Ed., p. 277 as we quoted in CBAA Case No. V-20, Mrs. Concordia Prisno vs. LBAA of Tacloban City and City Assessor of Tacloban City, June 1, 2004)

Moreover, this Board finds the arguments herein raised by the petitioner-appellant have been squarely elucidated in the Decision dated October 2, 2007 and this Board does not find any compelling reason to reverse or modify said decision.

WHEREFORE, premises considered, the motion for reconsideration of petitioner-appellant is hereby DENIED for lack of merit.

SO ORDERED.

Manila, Philippines, December 3, 2007.

(Signed)
CESAR S. GUTIERREZ
Chairman

(Signed)
ANGEL P. PALOMARES
Member

(Signed)
RAFAEL O. CORTES
Member