

SECOND DIVISION

[G.R. No. 192945, September 05, 2012]

CITY OF IRIGA, PETITIONER, VS. CAMARINES SUR III ELECTRIC COOPERATIVE, INC. (CASURECO III), RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

The Court reiterates that a franchise tax is a tax levied on the exercise by an entity of the rights or privileges granted to it by the government.^[1] In the absence of a clear and subsisting legal provision granting it tax exemption, a franchise holder, though non-profit in nature, may validly be assessed franchise tax by a local government unit.

Before the Court is a petition filed under Rule 45 of the Revised Rules of Court seeking to set aside the February 11, 2010 Decision^[2] and July 12, 2010 Resolution^[3] of the Court of Appeals (CA), which reversed the February 7, 2005 Decision of the Regional Trial Court (RTC) of Iriga City, Branch 36 and ruled that respondent Camarines Sur III Electric Cooperative, Inc. (CASURECO III) is exempt from payment of local franchise tax.

The Facts

CASURECO III is an electric cooperative duly organized and existing by virtue of Presidential Decree (PD) 269,^[4] as amended, and registered with the National Electrification Administration (NEA). It is engaged in the business of electric power distribution to various end-users and consumers within the City of Iriga and the municipalities of Nabua, Bato, Baao, Buhi, Bula and Balatan of the Province of Camarines Sur, otherwise known as the "Rinconada area."^[5]

Sometime in 2003, petitioner City of Iriga required CASURECO III to submit a report of its gross receipts for the period 1997-2002 to serve as the basis for the computation of franchise taxes, fees and other charges.^[6] The latter complied^[7] and was subsequently assessed taxes.

On January 7, 2004, petitioner made a final demand on CASURECO III to pay the franchise taxes due for the period 1998-2003 and real property taxes due for the period 1995-2003.^[8] CASURECO III, however, refused to pay said taxes on the ground that it is an electric cooperative provisionally registered with the Cooperative Development Authority (CDA),⁹ and therefore exempt from the payment of local taxes.^[10]

On March 15, 2004, petitioner filed a complaint for collection of local taxes against CASURECO III before the RTC, citing its power to tax under the Local Government

Code (LGC) and the Revenue Code of Iriga City.^[11]

It alleged that as of December 31, 2003, CASURECO III.s franchise and real property taxes liability, inclusive of penalties, surcharges and interest, amounted to Seventeen Million Thirty-Seven Thousand Nine Hundred Thirty-Six Pesos and Eighty-Nine Centavos (P17,037,936.89) and Nine Hundred Sixteen Thousand Five Hundred Thirty-Six Pesos and Fifty Centavos (P916,536.50), respectively.^[12]

In its Answer, CASURECO III denied liability for the assessed taxes, asserting that the computation of the petitioner was erroneous because it included 1) gross receipts from service areas beyond the latter.s territorial jurisdiction; 2) taxes that had already prescribed; and 3) taxes during the period when it was still exempt from local government tax by virtue of its then subsisting registration with the CDA.^[13]

Ruling of the Trial Court

In its Decision dated February 7, 2005, the RTC ruled that the real property taxes due for the years 1995-1999 had already prescribed in accordance with Section 194^[14] of the LGC. However, it found CASURECO III liable for franchise taxes for the years 2000-2003 based on its gross receipts from Iriga City and the Rinconada area on the ground that the "situs of taxation is the place where the privilege is exercised."^[15] The dispositive portion of the RTC Decision reads:

WHEREFORE, in view of the foregoing, defendant is hereby made liable to pay plaintiff real property taxes and franchise taxes on its receipts, including those from service area covering Nabua, Bato, Baao and Buhi for the years 2000 up to the present. The realty taxes for the years 1995 and 1999 is hereby declared prescribed. The City Assessor is hereby directed to make the proper classification of defendant.s real property in accordance with Ordinance issued by the City Council.

SO ORDERED.^[16]

Only CASURECO III appealed from the RTC Decision, questioning its liability for franchise taxes.

Ruling of the Court of Appeals

In its assailed Decision, the CA found CASURECO III to be a nonprofit entity, not falling within the purview of "businesses enjoying a franchise" pursuant to Section 137 of the LGC. It explained that CASURECO III.s non-profit nature is diametrically opposed to the concept of a "business," which, as defined under Section 131 of the LGC, is a "trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit." Consequently, it relieved CASURECO III from liability to pay franchise taxes.

Petitioner moved for reconsideration, which the CA denied in its July 12, 2010 Resolution for being filed a day late, hence, the instant petition.

Issues Before the Court

Petitioner raises two issues for resolution, which the Court restates as follows: (1) whether or not an electric cooperative registered under PD 269 but not under RA 6938^[17] is liable for the payment of local franchise taxes; and (2) whether or not the *situs* of taxation is the place where the franchise holder exercises its franchise regardless of the place where its services or products are delivered.

CASURECO III, on the other hand, raises the procedural issue that since the motion for reconsideration of the CA Decision was filed out of time, the same had attained finality.

The Court's Ruling

The petition is meritorious.

Before delving into the substantive issues, the Court notes the procedural lapses extant in the present case.

Proper Mode of Appeal from the Decision of the Regional Trial Court involving local taxes

RA 9282,^[18] which took effect on April 23, 2004, expanded the jurisdiction of the Court of Tax Appeals (CTA) to include, among others, the power to review by appeal decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction.^[19]

Considering that RA 9282 was already in effect when the RTC rendered its decision on February 7, 2005, CASURECO III should have filed its appeal, not with the CA, but with the CTA Division in accordance with the applicable law and the rules of the CTA. Resort to the CA was, therefore, improper, rendering its decision null and void for want of jurisdiction over the subject matter. A void judgment has no legal or binding force or efficacy for any purpose or at any place.^[20] Hence, the fact that petitioner's motion for reconsideration from the CA Decision was belatedly filed is inconsequential, because a void and non-existent decision would never have acquired finality.^[21]

The foregoing procedural lapses would have been sufficient to dismiss the instant petition outright and declare the decision of the RTC final. However, the substantial merits of the case compel us to dispense with these lapses and instead, exercise the Court's power of judicial review.

CASURECO III is not exempt from payment of franchise tax

PD 269, which took effect on August 6, 1973, granted electric cooperatives registered with the NEA, like CASURECO III, several tax privileges, one of which is exemption from the payment of "all national government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit

fees or taxes.”^[22]

On March 10, 1990, Congress enacted into law RA 6938,^[23] otherwise known as the "Cooperative Code of the Philippines," and RA 6939^[24] creating the CDA. The latter law vested the power to register cooperatives solely on the CDA, while the former provides that electric cooperatives registered with the NEA under PD 269 which *opt not to register* with the CDA shall not be entitled to the benefits and privileges under the said law.

On January 1, 1992, the LGC took effect, and Section 193 thereof withdrew tax exemptions or incentives previously enjoyed by “all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, *cooperatives duly registered under R.A. No. 6938*, non-stock and non-profit hospitals and educational institutions.”^[25]

In *Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) v. The Secretary, Department of Interior and Local Government*,^[26] the Court held that the tax privileges granted to electric cooperatives registered with NEA under PD 269 were validly withdrawn and only those registered with the CDA under RA 6938 may continue to enjoy the tax privileges under the Cooperative Code.

Therefore, CASURECO III can no longer invoke PD 269 to evade payment of local taxes. Moreover, its provisional registration with the CDA which granted it exemption for the payment of local taxes was extended only until May 4, 1992. Thereafter, it can no longer claim any exemption from the payment of local taxes, including the subject franchise tax.

Indisputably, petitioner has the power to impose local taxes. The power of the local government units to impose and collect taxes is derived from the Constitution itself which grants them “the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitation as the Congress may provide.”^[27] This explicit constitutional grant of power to tax is consistent with the basic policy of local autonomy and decentralization of governance. With this power, local government units have the fiscal mechanisms to raise the funds needed to deliver basic services to their constituents and break the culture of dependence on the national government. Thus, consistent with these objectives, the LGC was enacted granting the local government units, like petitioner, the power to impose and collect franchise tax, to wit:

SEC. 137. *Franchise Tax.* - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction. xxx

SEC. 151. *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent