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THIRD DIVISION

[G.R. No. 180110. May 30, 2016]

CAPITOL WIRELESS, INC., *petitioner, vs.* **THE PROVINCIAL TREASURER OF BATANGAS, THE PROVINCIAL ASSESSOR OF BATANGAS, THE MUNICIPAL TREASURER AND ASSESSOR OF NASUGBU, BATANGAS,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; THE GENERAL RULE OF A PREREQUISITE RECOURSE TO ADMINISTRATIVE REMEDIES APPLIES WHEN QUESTIONS OF FACT ARE RAISED, BUT THE EXCEPTION OF DIRECT COURT ACTION IS ALLOWED WHEN PURELY QUESTIONS OF LAW ARE INVOLVED.— In disputes involving real property taxation, the general rule is to require the taxpayer to first avail of administrative remedies and pay the tax under protest before allowing any resort to a judicial action, except when the assessment itself is alleged to be illegal or is made without legal authority. For example, prior resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when only the legality, power, validity or authority of the assessment itself is in question. Stated differently, the general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved.

2. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; QUESTIONS OF LAW DISTINGUISHED FROM QUESTIONS OF FACT.— This Court has previously and rather succinctly discussed the difference between a question of fact and a question of law. xxx. In *Ramos v. Pepsi-Cola Bottling Co. of the P.I.,* the Court ruled: There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to

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the truth or the falsehood of alleged facts. We shall label this the doubt dichotomy. In *Republic v. Sandiganbayan,* the Court ruled: x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. In contrast, a question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation. For the sake of brevity, We shall label this the law application and calibration dichotomy.

3. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; FACTUAL ISSUES ARE COGNIZABLE BY THE LOCAL ADMINISTRATIVE BODIES.— [T]he Court sustains the CA's finding that petitioner's case is one replete with questions of fact instead of pure questions of law, which renders its filing in a judicial forum improper because it is instead cognizable by local administrative bodies like the Board of Assessment Appeals, which are the proper venues for trying these factual issues. Verily, what is alleged by Capwire in its petition as "the crux of the controversy," that is, "whether or not an indefeasible right over a submarine cable system that lies in international waters can be subject to real property tax in the Philippines," is not the genuine issue that the case presents – as it is already obvious and fundamental that real property that lies outside of Philippine territorial jurisdiction cannot be subjected to its domestic and sovereign power of real property taxation – but, rather, such factual issues as the extent and status of Capwire's ownership of the system, the actual length of the cable/s that lie in Philippine territory, and the corresponding assessment and taxes due on the same, because the public respondents imposed and collected the assailed real property tax on the finding that at least a portion or some portions of the submarine cable system that Capwire owns or co-owns lies inside Philippine territory. Capwire's disagreement with such findings of the administrative bodies presents little to no legal question that only the courts may directly resolve.

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4. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; ISSUES; A BARE CHARACTERIZATION IN A PETITION OF UNLAWFULNESS, IS MERELY A LEGAL CONCLUSION AND A WISH OF THE PLEADER, AND SUCH A LEGAL CONCLUSION UNSUBSTANTIATED BY FACTS WHICH COULD GIVE IT LIFE, HAS NO STANDING IN ANY COURT WHERE ISSUES MUST BE PRESENTED AND DETERMINED BY FACTS IN ORDINARY AND CONCISE LANGUAGE.— Capwire argues and makes claims on mere assumptions of certain facts as if they have been already admitted or established, when they have not, since no evidence of such have yet been presented in the proper agencies and even in the current petition. As such, it remains unsettled whether Capwire is a mere co-owner, not full owner, of the subject submarine cable and, if the former, as to what extent; whether all or certain portions of the cable are indeed submerged in water; and whether the waters wherein the cable/s is/are laid are entirely outside Philippine territorial or inland waters, *i.e.*, in international waters. More simply, Capwire argues based on mere legal conclusions, culminating on its claim of illegality of respondents' acts, but the conclusions are yet unsupported by facts that should have been threshed out quasi-judicially before the administrative agencies. It has been held that "a bare characterization in a petition of unlawfulness, is merely a legal conclusion and a wish of the pleader, and such a legal conclusion unsubstantiated by facts which could give it life, has no standing in any court where issues must be presented and determined by facts in ordinary and concise language." Therefore, Capwire's resort to judicial action, premised on its legal conclusion that its cables (the equipment being taxed) lie entirely on international waters, without first administratively substantiating such a factual premise, is improper and was rightly denied.

5. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; SUBMARINE OR UNDERSEA COMMUNICATIONS CABLES ARE CLASSIFIED UNDER THE TERM "MACHINERY" SUBJECT TO REAL PROPERTY TAX.— Submarine or undersea communications cables are akin to electric transmission lines which this Court has recently declared in *Manila Electric Company v. City Assessor and City Treasurer of Lucena City,* as "no longer exempted from real property tax" and may

qualify as "machinery" subject to real property tax under the Local Government Code. To the extent that the equipment's location is determinable to be within the taxing authority's jurisdiction, the Court sees no reason to distinguish between submarine cables used for communications and aerial or underground wires or lines used for electric transmission, so that both pieces of property do not merit a different treatment in the aspect of real property taxation. Both electric lines and communications cables, in the strictest sense, are not directly adhered to the soil but pass through posts, relays or landing stations, but both may be classified under the term "machinery" as real property under Article 415(5) of the Civil Code for the simple reason that such pieces of equipment serve the owner's business or tend to meet the needs of his industry or works that are on real estate. Even objects in or on a body of water may be classified as such, as "waters" is classified as an immovable under Article 415(8) of the Code.

6. ID.; ID.; ID.; ID.; ID.; A PORTION OF PETITIONER'S SUBMARINE CABLE SYSTEM LIES WITHIN THE PHILIPPINE INTERNAL WATERS OVER WHICH THE PHILIPPINES EXERCISES SOVEREIGNITY, AND THUS FALLS WITHIN THE JURISDICTION OF THE LOCAL TAXING AUTHORITIES.— [I]t is not in dispute that the submarine cable system's Landing Station in Nasugbu, Batangas is owned by PLDT and not by Capwire. Obviously, Capwire is not liable for the real property tax on this Landing Station. Nonetheless, Capwire admits that it co-owns the submarine cable system that is subject of the tax assessed and being collected by public respondents. As the Court takes judicial notice that Nasugbu is a coastal town and the surrounding sea falls within what the United Nations Convention on the Law of the Sea (*UNCLOS*) would define as the country's territorial sea (to the extent of 12 nautical miles outward from the nearest baseline, under Part II, Sections 1 and 2) over which the country has sovereignty, including the seabed and subsoil, it follows that indeed a portion of the submarine cable system lies within Philippine territory and thus falls within the jurisdiction of the said local taxing authorities. It easily belies Capwire's contention that the cable system is entirely in international waters. And even if such portion does not lie in the 12-nautical-mile vicinity of the territorial sea but further inward, in *Prof. Magallona v. Hon. Ermita, et al.* the Court held that "whether referred to as Philippine 'internal waters' under

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Article I of the Constitution or as 'archipelagic waters' under UNCLOS Part III, Article 49(1, 2, 4), the Philippines exercises sovereignty over the body of water lying landward of (its) baselines, including the air space over it and the submarine areas underneath." Further, under Part VI, Article 79 of the UNCLOS, the Philippines clearly has jurisdiction with respect to cables laid in its territory that are utilized in support of other installations and structures and its jurisdiction.

7. ID.; ID.; ID.; ID.; THE JURISDICTION OR AUTHORITY OVER THE PART OF THE SUBMARINE CABLE SYSTEM LYING WITHIN PHILIPPINE JURISDICTION INCLUDES THE AUTHORITY TO TAX THE SAME.— And as far as local government units are concerned, the areas described x x x are to be considered subsumed under the term "municipal waters" which, under the Local Government Code, includes "not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it." Although the term "municipal waters" appears in the Code in the context of the grant of quarrying and fisheries privileges for a fee by local governments, its inclusion in the Code's Book II which covers local taxation means that it may also apply as guide in determining the territorial extent of the local authorities' power to levy real property taxation. Thus, the jurisdiction or authority over such part of the subject submarine cable system lying within Philippine jurisdiction includes the authority to tax the same, for taxation is one of the three basic and necessary attributes of sovereignty, and such authority has been delegated by the national legislature to the local governments with respect to real property taxation.

8. ID.; ID.; ID.; ID.; REAL PROPERTY TAX EXEMPTION PRIVILEGES ARE EXPRESSLY WITHDRAWN UPON THE EFFECTIVITY OF THE LOCAL GOVERNMENT CODE; ABSENT ANY DOMESTIC ENACTMENT, CONTRACT, OR AN INTERNATIONAL AGREEMENT OR TREATY GRANTING EXEMPTION FROM REAL PROPERTY

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TAXATION AFTER THE ENACTMENT OF THE LOCAL GOVERNMENT CODE, THE PRESUMPTION STAYS THAT THE TAXPAYER ENJOYS NO SUCH PRIVILEGE OR EXEMPTION.— [A] way for Capwire to claim that its cable system is not covered by such authority is by showing a domestic enactment or even contract, or an international agreement or treaty exempting the same from real property taxation. It failed to do so, however, despite the fact that the burden of proving exemption from local taxation is upon whom the subject real property is declared. xxx. [E]ven under Capwire's legislative franchise, RA 4387, which amended RA 2037, where it may be derived that there was a grant of real property tax exemption for properties that are part of its franchise, or directly meet the needs of its business, such had been expressly withdrawn by the Local Government Code, which took effect on January 1, 1992, xxx. Section 234. *Exemptions from Real Property Tax.* x x x. **Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.** Such express withdrawal had been previously held effective upon exemptions bestowed by legislative franchises granted prior to the effectivity of the Local Government Code. Capwire fails to allege or provide any other privilege or exemption that were granted to it by the legislature after the enactment of the Local Government Code. Therefore, the presumption stays that it enjoys no such privilege or exemption. Tax exemptions are strictly construed against the taxpayer because taxes are considered the lifeblood of the nation.

APPEARANCES OF COUNSEL

De la Cuesta De las Alas & Tantuico for petitioner.
Dennis C. Macatangay for respondents.

D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the

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Court of Appeals' Decision[1] dated May 30, 2007 and Resolution[2] dated October 8, 2007 in CA-G.R. SP No. 82264, which both denied the appeal of petitioner against the decision of the Regional Trial Court.

Below are the facts of the case.

Petitioner Capitol Wireless, Inc. (*Capwire*) is a Philippine corporation in the business of providing international telecommunications services.[3] As such provider, Capwire has signed agreements with other local and foreign telecommunications companies covering an international network of submarine cable systems such as the Asia Pacific Cable Network System (*APCN*) (which connects Australia, Thailand, Malaysia, Singapore, Hong Kong, Taiwan, Korea, Japan, Indonesia and the Philippines); the Brunei-Malaysia-Philippines Cable Network System (*BMP-CNS*), the Philippines-Italy (SEA-ME-WE-3 CNS), and the Guam Philippines (*GP-CNS*) systems.[4] The agreements provide for co-ownership and other rights among the parties over the network.[5]

Petitioner Capwire claims that it is co-owner only of the so-called "Wet Segment" of the APCN, while the landing stations or terminals and Segment E of APCN located in Nasugbu, Batangas are allegedly owned by the Philippine Long Distance Telephone Corporation (*PLDT*).[6] Moreover, it alleges that the Wet Segment is laid in international, and not Philippine, waters.[7]

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[1] Penned by Associate Justice Aurora Santiago-Lagman, with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Apolinario D. Bruselas, Jr., concurring; *rollo*, pp. 9-16.

Despite being impleaded in the petition, the Court of Appeals is now being excluded as respondent by this Court per Section 4 (a), Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Santiago-Lagman, with Associate Justices Bienvenido L. Reyes and Apolinario D. Bruselas, Jr., concurring; *id.* at 18-19.

[3] *Id.* at 27.

[4] *Id.* at 27-30.

[5] *Id.*

[6] *Id.* at 30.

[7] *Id.*

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Capwire claims that as co-owner, it does not own any particular physical part of the cable system but, consistent with its financial contributions, it owns the right to use a certain capacity of the said system.[8] This property right is allegedly reported in its financial books as "Indefeasible Rights in Cable Systems."[9]

However, for loan restructuring purposes, Capwire claims that "it was required to register the value of its right," hence, it engaged an appraiser to "assess the market value of the international submarine cable system and the cost to Capwire."[10] On May 15, 2000, Capwire submitted a Sworn Statement of True Value of Real Properties at the Provincial Treasurer's Office, Batangas City, Batangas Province, for the Wet Segment of the system, stating:

System	Sound Value
APCN	₱203,300,000.00
BMP-CNS	₱ 65,662,000.00
SEA-ME-WE-3 CNSP	₱ 7,540,000.00
GP-CNS	₱ 1,789,000.00

Capwire claims that it also reported that the system "interconnects at the PLDT Landing Station in Nasugbu, Batangas," which is covered by a transfer certificate of title and tax declarations in the name of PLDT.[11]

As a result, the respondent Provincial Assessor of Batangas (*Provincial Assessor*) issued the following Assessments of Real Property (*ARP*) against Capwire:

ARP	Cable System	Assessed Value
019-00967	BMP-CNS	₱ 52,529,600.00
019-00968	APCN	₱162,640,000.00
019-00969	SEA-ME-WE3-CNS	₱ 6,032,000.00
019-00970	GP-CNS	₱ 1,431,200.00

In essence, the Provincial Assessor had determined that the submarine cable systems described in Capwire's Sworn Statement

[8] *Id.*

[9] *Id.* at 30-31.

[10] *Id.* at 31.

[11] *Id.* at 31-32.

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of True Value of Real Properties are taxable real property, a determination that was contested by Capwire in an exchange of letters between the company and the public respondent.[12] The reason cited by Capwire is that the cable system lies outside of Philippine territory, *i.e.*, on international waters.[13]

On February 7, 2003 and March 4, 2003, Capwire received a Warrant of Levy and a Notice of Auction Sale, respectively, from the respondent Provincial Treasurer of Batangas (*Provincial Treasurer*).[14]

On March 10, 2003, Capwire filed a Petition for Prohibition and Declaration of Nullity of Warrant of Levy, Notice of Auction Sale and/or Auction Sale with the Regional Trial Court (*RTC*) of Batangas City.[15]

After the filing of the public respondents' Comment,[16] on May 5, 2003, the RTC issued an Order dismissing the petition for failure of the petitioner Capwire to follow the requisite of payment under protest as well as failure to appeal to the Local Board of Assessment Appeals (*LBAA*), as provided for in Sections 206 and 226 of Republic Act (*R.A.*) No. 7160, or the Local Government Code.[17]

Capwire filed a Motion for Reconsideration,[18] but the same was likewise dismissed by the RTC in an Order[19] dated August 26, 2003. It then filed an appeal to the Court of Appeals.[20]

On May 30, 2007, the Court of Appeals promulgated its Decision dismissing the appeal filed by Capwire and affirming the order of the trial court. The dispositive portion of the CA's decision states:

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[12] *Id.* at 32, 181-192.

[13] *Id.* at 32, 182.

[14] *Id.* at 32, 78-81.

[15] *Id.* at 32, 64-77.

[16] *Id.* at 33, 193-199.

[17] *Id.* at 33, 200-203.

[18] *Id.* at 204-212.

[19] *Id.* at 223-228.

[20] *Id.* at 229-255.

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WHEREFORE, premises considered, the assailed Orders dated May 5, 2003 and August 26, 2003 of the Regional Trial Court, Branch II of Batangas City, are AFFIRMED.

SO ORDERED.[21]

The appellate court held that the trial court correctly dismissed Capwire's petition because of the latter's failure to comply with the requirements set in Sections 226 and 229 of the Local Government Code, that is, by not availing of remedies before administrative bodies like the LBAA and the Central Board of Assessment Appeals (*CBAA*).[22] Although Capwire claims that it saw no need to undergo administrative proceedings because its petition raises purely legal questions, the appellate court did not share this view and noted that the case raises questions of fact, such as the extent to which parts of the submarine cable system lie within the territorial jurisdiction of the taxing authorities, the public respondents.[23] Further, the CA noted that Capwire failed to pay the tax assessed against it under protest, another strict requirement under Section 252 of the Local Government Code.[24]

Hence, the instant petition for review of Capwire.

Petitioner Capwire asserts that recourse to the Local Board of Assessment Appeals, or payment of the tax under protest, is inapplicable to the case at bar since there is no question of fact involved, or that the question involved is not the reasonableness of the amount assessed but, rather, the authority and power of the assessor to impose the tax and of the treasurer to collect it.[25] It contends that there is only a pure question of law since the issue is whether its submarine cable system, which it claims lies in

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[21] *Id.* at 34.

[22] *Id.* at 13-14.

[23] *Id.* at 14.

[24] *Id.* at 15.

[25] *Id.* at 35-36.

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international waters, is taxable.[26] Capwire holds the position that the cable system is not subject to tax.[27]

Respondents assessors and treasurers of the Province of Batangas and Municipality of Nasugbu, Batangas disagree with Capwire and insist that the case presents questions of fact such as the extent and portion of the submarine cable system that lies within the jurisdiction of the said local governments, as well as the nature of the so-called indefeasible rights as property of Capwire.[28] Such questions are allegedly resolvable only before administrative agencies like the Local Board of Assessment Appeals.[29]

The Court confronts the following issues: Is the case cognizable by the administrative agencies and covered by the requirements in Sections 226 and 229 of the Local Government Code which makes the dismissal of Capwire's petition by the RTC proper? May submarine communications cables be classified as taxable real property by the local governments?

The petition is denied. No error attended the ruling of the appellate court that the case involves factual questions that should have been resolved before the appropriate administrative bodies.

In disputes involving real property taxation, the general rule is to require the taxpayer to first avail of administrative remedies and pay the tax under protest before allowing any resort to a judicial action, except when the assessment itself is alleged to be illegal or is made without legal authority.[30] For example, prior resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when

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[26] *Id.* at 37-38.

[27] *Id.*

[28] *Id.* at 277-278.

[29] *Id.* at 278.

[30] *City of Lapu-lapu v. Philippine Economic Zone Authority*, G.R. No. 184203, November 26, 2014; *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*, G.R. No. 169234, October 2, 2013; *National Power Corporation v. Province of Quezon*, 624 Phil. 738 (2010).

only the legality, power, validity or authority of the assessment itself is in question.[31] Stated differently, the general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved.[32]

This Court has previously and rather succinctly discussed the difference between a question of fact and a question of law. In *Cosmos Bottling Corporation v. Nagrama, Jr.*,[33] it held:

> The Court has made numerous dichotomies between questions of law and fact. A reading of these dichotomies shows that labels attached to law and fact are descriptive rather than definitive. We are not alone in Our difficult task of clearly distinguishing questions of fact from questions of law. The United States Supreme Court has ruled that: "we [do not] yet know of any other rule or principle that will unerringly distinguish a factual finding from a legal conclusion."
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> In *Ramos v. Pepsi-Cola Bottling Co. of the P.I.*, the Court ruled:
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> > There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts.
> >
> > We shall label this the doubt dichotomy.
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> In *Republic v. Sandiganbayan*, the Court ruled:
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> > x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. In contrast, a question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence

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[31] *Id.*

[32] *National Power Corporation v. Municipal Government of Navotas*, G.R. No. 192300, November 24, 2014, quoting *Ty v. Hon. Trampe*, 321 Phil. 81, 88 (1995).

[33] 571 Phil. 281 (2008).

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> and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.
>
> For the sake of brevity, We shall label this the law application and calibration dichotomy.
>
> In contrast, the dynamic legal scholarship in the United States has birthed many commentaries on the question of law and question of fact dichotomy. As early as 1944, the law was described as growing downward toward "roots of fact" which grew upward to meet it. In 1950, the late Professor Louis Jaffe saw fact and law as a spectrum, with one shade blending imperceptibly into the other. Others have defined questions of law as those that deal with the general body of legal principles; questions of fact deal with "all other phenomena x x x." Kenneth Culp Davis also weighed in and noted that the difference between fact and law has been characterized as that between "ought" questions and "is" questions.[34]

Guided by the quoted pronouncement, the Court sustains the CA's finding that petitioner's case is one replete with questions of fact instead of pure questions of law, which renders its filing in a judicial forum improper because it is instead cognizable by local administrative bodies like the Board of Assessment Appeals, which are the proper venues for trying these factual issues. Verily, what is alleged by Capwire in its petition as "the crux of the controversy," that is, "whether or not an indefeasible right over a submarine cable system that lies in international waters can be subject to real property tax in the Philippines,"[35] is not the genuine issue that the case presents — as it is already obvious and fundamental that real property that lies outside of Philippine territorial jurisdiction cannot be subjected to its domestic and sovereign power of real property taxation — but, rather, such factual issues as the extent and status of Capwire's ownership of the system, the actual length of the cable/s that lie in Philippine territory, and the corresponding assessment and taxes due on the same, because the public respondents imposed and collected the assailed real property tax on the finding that at least a portion or some portions of the submarine cable system that Capwire

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[34] *Cosmos Bottling Corp. v. Nagrama, Jr.*, *supra*, at 295-297. (Citations omitted)

[35] *Rollo*, p. 37.

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owns or co-owns lies inside Philippine territory. Capwire's disagreement with such findings of the administrative bodies presents little to no legal question that only the courts may directly resolve.

Instead, Capwire argues and makes claims on mere assumptions of certain facts as if they have been already admitted or established, when they have not, since no evidence of such have yet been presented in the proper agencies and even in the current petition. As such, it remains unsettled whether Capwire is a mere co-owner, not full owner, of the subject submarine cable and, if the former, as to what extent; whether all or certain portions of the cable are indeed submerged in water; and whether the waters wherein the cable/s is/ are laid are entirely outside of Philippine territorial or inland waters, *i.e.*, in international waters. More simply, Capwire argues based on mere legal conclusions, culminating on its claim of illegality of respondents' acts, but the conclusions are yet unsupported by facts that should have been threshed out quasi-judicially before the administrative agencies. It has been held that "a bare characterization in a petition of unlawfulness, is merely a legal conclusion and a wish of the pleader, and such a legal conclusion unsubstantiated by facts which could give it life, has no standing in any court where issues must be presented and determined by facts in ordinary and concise language."[36] Therefore, Capwire's resort to judicial action, premised on its legal conclusion that its cables (the equipment being taxed) lie entirely on international waters, without first administratively substantiating such a factual premise, is improper and was rightly denied. Its proposition that the cables lie entirely beyond Philippine territory, and therefore, outside of Philippine sovereignty, is a fact that is not subject to judicial notice since, on the contrary, and as will be explained later, it is in fact certain that portions of the cable would definitely lie within Philippine waters. Jurisprudence on the Local Government Code is clear that facts such as these must be threshed out administratively, as the courts in these types of cases step in at the first instance only when pure questions of law are involved.

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[36] *Petty v. Dayton Musicians' Association*, 153 NE2d 218, affirmed 153 NE2d 223, quoted in *Vergel de Dios v. Bristol Laboratories Phils., Inc.*, 154 Phil. 311, 317-322 (1974).

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Nonetheless, We proceed to decide on whether submarine wires or cables used for communications may be taxed like other real estate.

We hold in the affirmative.

Submarine or undersea communications cables are akin to electric transmission lines which this Court has recently declared in *Manila Electric Company v. City Assessor and City Treasurer of Lucena City,*[37] as "no longer exempted from real property tax" and may qualify as "machinery" subject to real property tax under the Local Government Code. To the extent that the equipment's location is determinable to be within the taxing authority's jurisdiction, the Court sees no reason to distinguish between submarine cables used for communications and aerial or underground wires or lines used for electric transmission, so that both pieces of property do not merit a different treatment in the aspect of real property taxation. Both electric lines and communications cables, in the strictest sense, are not directly adhered to the soil but pass through posts, relays or landing stations, but both may be classified under the term "machinery" as real property under Article 415 (5)[38] of the Civil Code for the simple reason that such pieces of equipment serve the owner's business or tend to meet the needs of his industry or works that are on real estate. Even objects in or on a body of water may be classified as such, as "waters" is classified as an immovable under

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[37] G.R. No. 166102, August 5, 2015.

[38] CIVIL CODE, Art. 415. The following are immovable property:

x x x x x x x x x

(5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works;

According to *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37, the requirements for the machinery to 1) be placed in the tenement by the owner of the tenement; and 2) that they be destined for use in the industry or work of the tenement are not required by the Local Government Code for the machinery to be classified as real property for purposes of taxation as such real property. All that is needed is for the machinery to tend to directly meet the needs of the owner's industry or works.

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Article 415 (8)[39] of the Code. A classic example is a boathouse which, by its nature, is a vessel and, therefore, a personal property but, if it is tied to the shore and used as a residence, and since it floats on waters which is immovable, is considered real property.[40] Besides, the Court has already held that "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."[41]

Thus, absent any showing from Capwire of any express grant of an exemption for its lines and cables from real property taxation, then this interpretation applies and Capwire's submarine cable may be held subject to real property tax.

Having determined that Capwire is liable, and public respondents have the right to impose a real property tax on its submarine cable, the issue that is unresolved is how much of such cable is taxable based on the extent of Capwire's ownership or co-ownership of it and the length that is laid within respondents' taxing jurisdiction. The matter, however, requires a factual determination that is best performed by the Local and Central Boards of Assessment Appeals, a remedy which the petitioner did not avail of.

At any rate, given the importance of the issue, it is proper to lay down the other legal bases for the local taxing authorities' power to tax portions of the submarine cables of petitioner. It is not in dispute that the submarine cable system's Landing Station in Nasugbu, Batangas is owned by PLDT and not by Capwire. Obviously, Capwire is not liable for the real property tax on this Landing Station.

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[39] CIVIL CODE, Art. 415. The following are immovable property:

x x x x x x x x x

(8) Mines, quarries, and slag dumps, while the matter thereof forms part of the bed, and waters either running or stagnant;

[40] Paras, Edgardo L., *Civil Code of the Philippines Annotated* (16th ed. 2008), Vol. II, pp. 28-29.

[41] *Standard Oil Co. of New York v. Jaramillo*, 44 Phil. 630, 633 (1923), cited in *Caltex (Phil.), Inc. v. Central Board of Assessment Appeals, et al.*, 199 Phil. 487, 492 (1982) and *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

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Nonetheless, Capwire admits that it co-owns the submarine cable system that is subject of the tax assessed and being collected by public respondents. As the Court takes judicial notice that Nasugbu is a coastal town and the surrounding sea falls within what the United Nations Convention on the Law of the Sea (*UNCLOS*) would define as the country's territorial sea (to the extent of 12 nautical miles outward from the nearest baseline, under Part II, Sections 1 and 2) over which the country has sovereignty, including the seabed and subsoil, it follows that indeed a portion of the submarine cable system lies within Philippine territory and thus falls within the jurisdiction of the said local taxing authorities.[42] It easily belies Capwire's contention that the cable system is entirely in international waters. And even if such portion does not lie in the 12-nautical-mile vicinity of the territorial sea but further inward, in *Prof. Magallona v. Hon. Ermita, et al.*[43] this Court held that "whether referred to as Philippine 'internal waters' under Article I of the Constitution[44] or as 'archipelagic waters' under UNCLOS Part III,

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[42] UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS), PART II. Territorial Sea and Contiguous Zone,

Section 1. General Provisions.

Article 2. Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil:

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

Section 2. Limits of the Territorial Sea.

Article 3. Breadth of the territorial sea.

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

[43] 671 Phil. 244, 266-267 (2011).

[44] CONSTITUTION, Art. I. *National Territory*. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or

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Article 49 (1, 2, 4),[45] the Philippines exercises sovereignty over the body of water lying landward of (its) baselines, including the air space over it and the submarine areas underneath." Further, under Part VI, Article 79[46] of the UNCLOS, the Philippines clearly has jurisdiction with respect to cables laid in its territory that are utilized in support of other installations and structures under its jurisdiction.

And as far as local government units are concerned, the areas described above are to be considered subsumed under the term "municipal waters" which, under the Local Government Code, includes "not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not

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jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

[45] Article 49. *Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil.* —

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

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4. The regime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

[46] Article 79. *Submarine cables and pipelines on the continental shelf.* —

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4. Nothing in this Part (*i.e.*, Part VI, Continental Shelf) affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

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comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it."[47] Although the term "municipal waters" appears in the Code in the context of the grant of quarrying and fisheries privileges for a fee by local governments,[48] its inclusion in the Code's Book II which covers local taxation means that it may also apply as guide in determining the territorial extent of the local authorities' power to levy real property taxation.

Thus, the jurisdiction or authority over such part of the subject submarine cable system lying within Philippine jurisdiction includes the authority to tax the same, for taxation is one of the three basic

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[47] LOCAL GOVERNMENT CODE, Book II, Chapter 1, Sec. 131 (r) "Municipal Waters" includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of their respective municipalities;

[48] *Id.*, at Sec. 138. *Tax on Sand, Gravel and Other Quarry Resources.* — The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the Sangguniang Panlalawigan.

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Sec. 149. *Fishery Rentals, Fees and Charges*. — (a) Municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rentals, fees or charges therefor in accordance with the provisions of this Section. x x x

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and necessary attributes of sovereignty,[49] and such authority has been delegated by the national legislature to the local governments with respect to real property taxation.[50]

As earlier stated, a way for Capwire to claim that its cable system is not covered by such authority is by showing a domestic enactment or even contract, or an international agreement or treaty exempting the same from real property taxation. It failed to do so, however, despite the fact that the burden of proving exemption from local taxation is upon whom the subject real property is declared.[51] Under the Local Government Code, every person by or for whom real property is declared, who shall claim tax exemption for such property from real property taxation "shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim."[52] Capwire omitted to do so. And even under Capwire's legislative franchise, RA 4387, which amended RA 2037, where it may be derived that there was a grant of real property tax exemption for properties that are part of its franchise, or directly meet the needs of its business,[53] such had been expressly withdrawn

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[49] *Compagnie Financiere Sucres Et Denrees v. Commissioner of Internal Revenue,* 531 Phil. 264, 267 (2006); *Commissioner of Internal Revenue v. Solidbank Corp*., 462 Phil. 96, 127 (2003).

[50] LOCAL GOVERNMENT CODE, Title II; *The City Government of Quezon City v. Bayan Telecommunications, Inc.*, 519 Phil. 159, 174 (2006).

[51] *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*, G.R. No. 169234, October 2, 2013, citing the LOCAL GOVERNMENT CODE, Section 206.

[52] LOCAL GOVERNMENT CODE, Sec. 206. *Proof of Exemption of Real Property from Taxation.* — Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.

[53] Sec. 5. The same Act is further amended by adding between Sections thirteen and fourteen thereof a new section which shall read as follows:

Sec. 13-A. (a) The grantee shall be liable to pay the same taxes on its real

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by the Local Government Code, which took effect on January 1, 1992, Sections 193 and 234 of which provide:[54]

Section 193. *Withdrawal of Tax Exemption Privileges.* — Unless otherwise provided in this Code, **tax exemptions or incentives granted to, or presently 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 nonprofit hospitals and educational institutions, are hereby withdrawn** upon the effectivity of this Code.

x x x x x x x x x

Section 234. *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration of otherwise, to a taxable person;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all

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estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereinafter may be required by law to pay.

[54] See *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

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persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.[55]

Such express withdrawal had been previously held effective upon exemptions bestowed by legislative franchises granted prior to the effectivity of the Local Government Code.[56] Capwire fails to allege or provide any other privilege or exemption that were granted to it by the legislature after the enactment of the Local Government Code. Therefore, the presumption stays that it enjoys no such privilege or exemption. Tax exemptions are strictly construed against the taxpayer because taxes are considered the lifeblood of the nation.[57]

WHEREFORE, the petition is **DENIED.** The Court of Appeals' Decision dated May 30, 2007 and Resolution dated October 8, 2007 are **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), *Perez,* and *Mendoza,*[*] *JJ.,* concur.

Jardeleza, J., on leave.

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[55] Emphasis supplied.

[56] *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

[57] *City of Manila v. Colet*, G.R. No. 120051, December 10, 2014.

[*] Designated Additional Member in lieu of Associate Justice Bienvenido L. Reyes, per Raffle dated May 23, 2016.