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SECOND DIVISION

[G.R. No. 192945. September 5, 2012]

CITY OF IRIGA, *petitioner, vs.* **CAMARINES SUR III ELECTRIC COOPERATIVE, INC. (CASURECO III),** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PROPER MODE OF APPEAL FROM THE DECISION OF THE REGIONAL TRIAL COURT INVOLVING LOCAL TAXES; WITH THE ENACTMENT OF R.A. 9282 EXPANDING THE JURISDICTION OF THE COURT OF APPEALS (CTA) AND ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT, RESPONDENT COOPERATIVE SHOULD HAVE FILED ITS APPEAL WITH THE CTA AND NOT WITH THE COURT OF APPEALS (CA).— RA 9282, 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. 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. 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. 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.

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2. TAXATION; TAX EXEMPTION; LAWS GRANTING TAX PRIVILEGES TO ELECTRIC COOPERATIVES.— 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." On March 10, 1990, Congress enacted into law RA 6938, otherwise known as the "Cooperative Code of the Philippines," and RA 6939 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.

3. ID.; ID.; RESPONDENT COOPERATIVE IS NOT EXEMPT FROM PAYMENT OF FRANCHISE TAXES.— 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." In *Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) v. The Secretary, Department of Interior and Local Government*, 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.

4. ID.; LOCAL TAXATION; PETITIONER HAS THE POWER TO IMPOSE LOCAL TAXES; THE POWER OF LOCAL GOVERNMENT UNITS TO IMPOSE AND COLLECT TAXES IS DERIVED FROM THE CONSTITUTION WHICH GRANTS THEM THE POWER TO CREATE ITS OWN SOURCES OF REVENUES AND LEVY TAXES, FEES AND CHARGES

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SUBJECT TO SUCH GUIDELINES AND LIMITATION AS THE CONGRESS MAY PROVIDE.— 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." 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.

5. ID.; ID.; FRANCHISE TAX; A TAX ON THE PRIVILEGE OF TRANSACTING BUSINESS IN THE STATE AND EXERCISING CORPORATE FRANCHISES GRANTED BY THE STATE; IT IS WITHIN THIS CONTEXT THAT THE PHRASE "TAX ON BUSINESSES ENJOYING A FRANCHISE" IN SECTION 137 OF THE LOCAL GOVERNMENT CODE SHOULD BE INTERPRETED AND UNDERSTOOD.— In *National Power Corporation v. City of Cabanatuan*, the Court declared that "a franchise tax is 'a *tax on the privilege* of transacting business in the state and exercising corporate franchises granted by the state.'" It is not levied on the corporation simply for existing as a corporation, upon its property or its income, but on its exercise of the rights or privileges granted to it by the government. "It is within this context that the phrase 'tax on businesses enjoying a franchise' in Section 137 of the LGC should be interpreted and understood."

6. ID.; ID.; ID.; REQUISITES IN ORDER TO BE LIABLE FOR A LOCAL FRANCHISE TAX; PRESENT IN CASE AT BAR.— To be liable for local franchise tax, the following requisites should concur: (1) that one has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of the pertinent local government unit. There is a confluence of these requirements in the case at bar. By virtue of PD 269, NEA granted CASURECO III a franchise to operate an electric light

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and power service for a period of fifty (50) years from June 6, 1979, and it is undisputed that CASURECO III operates within Iriga City and the Rinconada area. It is, therefore, liable to pay franchise tax notwithstanding its non-profit nature.

7. ID.; ID.; ID.; RESPONDENT ELECTRIC COOPERATIVE IS LIABLE FOR FRANCHISE TAX ON GROSS RECEIPTS WITHIN IRIGA CITY AND RINCONADA AREA.— It should be stressed that what the petitioner seeks to collect from CASURECO III is a franchise tax, which as defined, is a tax on the exercise of a *privilege*. As Section 137 of the LGC provides, franchise tax shall be based on gross receipts precisely because it is a tax on *business*, rather than on persons or property. Since it partakes of the nature of an excise tax, the *situs* of taxation is the place where the privilege is exercised, in this case in the City of Iriga, where CASURECO III has its principal office and from where it operates, regardless of the place where its services or products are delivered. Hence, franchise tax covers all gross receipts from Iriga City and the Rinconada area.

APPEARANCES OF COUNSEL

Ruben T. Almelor, Jr. for petitioner.
Glenn G. Hao for respondent.

D E C I S I O N

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,

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[1] *National Power Corporation v. City of Cabanatuan*, G.R. No. 149110, April 9, 2003, 401 SCRA 259, 274.

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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.

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[2] Penned by Associate Justice Noel G. Tijam with Associate Justices Apolinario D. Bruselas, Jr. and Ruben C. Ayson, concurring, *rollo,* pp. 42-55.

[3] *Id.* at 37-40.

[4] Presidential Decree No. 269, Creating the "National Electrification Administration" as a Corporation, Prescribing Its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes. It took effect on August 6, 1973.

[5] *Rollo,* p. 43.

[6] *Id.*

[7] Records, p. 12.

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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 (₱17,037,936.89) and Nine Hundred Sixteen Thousand Five Hundred Thirty-Six Pesos and Fifty Centavos (₱916,536.50), 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]

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[8] *Id.* at 14.

[9] On March 10, 1990, Congress enacted into law Republic Act No. 6938, otherwise known as the "Cooperative Code of the Philippines" and Republic Act No. 6939 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 NEA under P.D. 269 which **opt not to register** with the CDA shall not be entitled to the benefits and privileges under the said law. (Emphasis supplied)

[10] *Rollo,* p. 43.

[11] Records, p. 2.

[12] *Rollo,* p. 44.

[13] Records, p. 26.

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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,

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[14] Section 194, LGC: *Periods of Assessment and Collection*. — (a) Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due. No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, That, taxes, fees or charges which have accrued before the effectivity of this Code may be assessed within a period of three (3) years from the date they became due.

(b) In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10) years from discovery of the fraud or intent to evade payment.

(c) Local taxes, fees, or charges may be collected within five (5) years from the date of assessment by administrative or judicial action. No such action shall be instituted after the expiration of said period: Provided, however, that, taxes, fees or charges assessed before the effectivity of this Code may be collected within a period of three (3) years from the date of assessment.

(d) The running of the periods of prescription provided in the preceding paragraphs shall be suspended for the time during which:

(1) The treasurer is legally prevented from making the assessment of collection;

(2) The taxpayer requests for a reinvestigation and executes a waiver in writing before expiration of the period within which to assess or collect; and

(3) The taxpayer is out of the country or otherwise cannot be located.

[15] CA *rollo*, p. 11.

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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 non-profit 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.

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[16] *Rollo,* p. 42.

[17] Republic Act No. 6938 (March 10, 1990), an Act to Ordain a Cooperative Code of the Philippines.

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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

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[18] Republic Act No. 9282 (March 30, 2004), an Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.

[19] Section 7(a)(3), RA 9282.

[20] *Roces v. House of Representatives Electoral Tribunal and Ang Ping*, G.R. No. 167499, September 15, 2005, 469 SCRA 681, 694.

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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,"

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[21] *Nazareno v. Hon. Court of Appeals*, G.R. No. 111610, February 27, 2002, 378 SCRA 28, 36.

[22] Presidential Decree No. 269 (August 6, 1973), Section 39. *Assistance to Cooperatives; Exemption from Taxes, Imposts, Duties, Fees; Assistance from the National Power Corporation.* Pursuant to the national policy declared in Section 2, the Congress hereby finds and declares that the following assistance to cooperative is necessary and appropriate:

(a) Provided that it operates in conformity with the purposes and provisions of this Decree, cooperatives (1) shall be permanently exempt from paying income taxes, and (2) x x x shall be exempt from the payment (a) of all National Government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit fees or taxes and any fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, and (b) of all duties or imposts on foreign goods acquired for its operations, x x x

(b) x x x x x x x x x

[23] Republic Act No. 6938 (March 10, 1990), amended by Republic Act 9520, "An Act Amending the Cooperative Code of the Philippines to be known as the 'Philippine Cooperative Code of 2008."'

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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.

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[24] Republic Act 6939 (March 10, 1990), An Act Creating the Cooperative Development Authority to Promote the Viability and Growth of Cooperatives as Instruments of Equity, Social Justice and Economic Development, Defining its Powers, Functions and Responsibilities, Rationalizing Government Policies and Agencies with Cooperative Functions, Supporting Cooperative Development, Transferring the Registration and Regulation Functions of Existing Government Agencies on Cooperatives as such and Consolidating the Same with the Authority, Appropriating Funds Therefor, and for Other Purposes.

[25] Local Government Code, Section 193, emphasis supplied.

[26] G.R. No. 143076, June 10, 2003, 403 SCRA 558.

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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
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> 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 component cities shall accrue to them and distributed in accordance with the provisions of this Code. The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

Taking a different tack, CASURECO III maintains that it is exempt from payment of franchise tax because of its nature as a *non-profit cooperative*, as contemplated in PD 269,[28]

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[27] *See* Section 5, Article X, 1987 Constitution.

[28] Section 2. *Declaration of National Policy.*

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and insists that only entities engaged in business, and not non-profit entities like itself, are subject to the said franchise tax.

The Court is not persuaded.

In *National Power Corporation v. City of Cabanatuan*,[29] the Court declared that "a franchise tax is 'a *tax on the privilege* of transacting business in the state and exercising corporate franchises granted by the state.'"[30] It is not levied on the corporation simply for existing as a corporation, upon its property or its income, but on its exercise of the rights or privileges granted to it by the government.[31] "It is within this context that the phrase 'tax on businesses enjoying a franchise' in Section 137 of the LGC should be interpreted and understood."[32]

Thus, to be liable for local franchise tax, the following requisites should concur: (1) that one has a "franchise" in the sense of a secondary or special franchise; and (2) that it is exercising its rights or privileges under this franchise within the territory of the pertinent local government unit.[33]

There is a confluence of these requirements in the case at bar. By virtue of PD 269, NEA granted CASURECO III a franchise to operate an electric light and power service for a period of fifty (50) years from June 6, 1979,[34] and it is undisputed that CASURECO III operates within Iriga City and the Rinconada

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Because of their non-profit nature, cooperative character and the heavy financial burdens that they must sustain to become effectively established and operationally viable, electric cooperatives, particularly, shall be given every tenable support and assistance by the National Government, its instrumentalities and agencies to the fullest extent of which they are capable; x x x

[29] G.R. No. 149110, April 9, 2003, 401 SCRA 259, 260.

[30] *Id.*, emphasis supplied.

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] Records, p. 44.

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area. It is, therefore, liable to pay franchise tax notwithstanding its non-profit nature.

CASURECO III is liable for franchise tax on gross receipts within Iriga City and Rinconada area

CASURECO III further argued that its liability to pay franchise tax, if any, should be limited to gross receipts received from the supply of the electricity within the City of Iriga and not those from the Rinconada area.

Again, the Court is not convinced.

It should be stressed that what the petitioner seeks to collect from CASURECO III is a franchise tax, which as defined, is a tax on the exercise of a *privilege*. As Section 137[35] of the LGC provides, franchise tax shall be based on gross receipts precisely because it is a tax on *business*, rather than on persons or property.[36] Since it partakes of the nature of an excise tax,[37] the *situs* of taxation is the place where the privilege is exercised, in this case in the City of Iriga, where CASURECO III has its principal

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[35] Local Government Code, Section. 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

[36] *Commissioner of Internal Revenue v. Solidbank Corp*., G.R. No. 148191, November 25, 2003, 416 SCRA 436, 463.

[37] "Generally stated, an excise tax is one that is imposed on the performance of an act, the engagement in an occupation, or the enjoyment of a privilege; and the word has come to have a broader meaning that includes every form of taxation not a burden laid directly on persons or property." (*See Commissioner of Internal Revenue v. Solidbank Corp.*, G.R. No. 148191, November 25, 2003, 416 SCRA 436, 463, citing *Manila Electric Company v. Vera*, 67 SCRA 352, October 22, 1975. See also *State ex rel. Janes v. Brown*, 148 NE 95, 96, May 19, 1925; *Buckstaff Bath House Co. v. McKinley*, 127 SW 2d 802, 806, April 10, 1939; and *State v. Fields*, 35 NE 2d 744, 749, July 15, 1938).

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office and from where it operates, regardless of the place where its services or products are delivered. Hence, franchise tax covers all gross receipts from Iriga City and the Rinconada area.

WHEREFORE, the petition is **GRANTED**. The assailed Decision dated February 11, 2010 and Resolution dated July 12, 2010 of the Court of Appeals are hereby **SET ASIDE** and the Decision of the Regional Trial Court of Iriga City, Branch 36, is **REINSTATED**.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perez, JJ.,* concur.

FIRST DIVISION

[G.R. No. 195592. September 5, 2012]

MAGDIWANG REALTY CORPORATION, RENATO P. DRAGON and ESPERANZA TOLENTINO, *petitioners, vs.* **THE MANILA BANKING CORPORATION, substituted by FIRST SOVEREIGN ASSET MANAGEMENT (SPV-AMC), INC.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL BY *CERTIORARI* TO THE SUPREME COURT; A PETITION FOR REVIEW ON *CERTIORARI* SHALL RAISE ONLY QUESTIONS OF LAW, WHICH MUST BE DISTINCTLY SET FORTH.— At the outset, we explain that based on the issues being raised by the petitioners, together with the arguments and the evidence being invoked in support thereof, we hold that the petition involves questions of fact that are beyond the ambit of a petition for review on *certiorari.* x x x Section 1, Rule