

**MERALCO SECURITIES INDUSTRIAL CORPORATION, PETITIONER,
VS. CENTRAL BOARD OF ASSESSMENT APPEALS, BOARD OF
ASSESSMENT APPEALS OF LAGUNA AND PROVINCIAL ASSESSOR OF
LAGUNA, RESPONDE...**

G.R. No. L-46245. May 31, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

In this special civil action of certiorari, Meralco Securities Industrial Corporation assails the decision of the Central Board of Assessment Appeals (composed of the Secretary of Finance as chairman and the Secretaries of Justice and Local Government and Community Development as members) dated May 6, 1976, holding that Meralco Securities' oil pipeline is subject to realty tax.

The record reveals that pursuant to a pipeline concession issued under the Petroleum Act of 1949, Republic Act No. 387, Meralco Securities installed from Batangas to Manila a pipeline system consisting of cylindrical steel pipes joined together and buried not less than one meter below the surface along the shoulder of the public highway. The portion passing through Laguna is about thirty kilometers long.

The pipes for white oil products measure fourteen inches in diameter by thirty-six feet with a maximum capacity of 75,000 barrels daily. The pipes for fuel and black oil measure sixteen inches by forty-eight feet with a maximum capacity of 100,000 barrels daily.

The pipes are embedded in the soil and are firmly and solidly welded together so as to preclude breakage or damage thereto and prevent leakage or seepage of the oil. The valves are welded to the pipes so as to make the pipeline system one single piece of property from end to end.

In order to repair, replace, remove or transfer segments of the pipeline, the pipes have to be cold-cut by means of a rotary hard-metal pipe-cutter after digging or excavating them out of the ground where they are buried. In points where the pipeline traversed rivers or creeks, the pipes were laid beneath the bed thereof. Hence, the pipes are permanently attached to the land.

However, Meralco Securities notes that segments of the pipeline can be moved from one place to another as shown in the permit issued by the Secretary of Public Works and Communications which permit provides that the government reserves the right to require the removal or transfer of the pipes by and at the concessionaire's expense should they be affected by any road repair or improvement.

Pursuant to the Assessment Law, Commonwealth Act No. 470, the provincial assessor of Laguna treated the pipeline as real property and issued Tax Declarations Nos. 6535-6537, San Pedro; 7473-7478, Cabuyao; 7967-7971, Sta. Rosa; 9882-9885, Biñan and 15806-15810, Calamba, containing the assessed values of portions of the pipelines.

Meralco Securities appealed the assessments to the Board of Assessment Appeals of Laguna composed of the register of deeds as chairman and the provincial auditor as member. That board in its decision of June 18, 1975 upheld the assessments (pp. 47-49, Rollo).

Meralco Securities brought the case to the Central Board of Assessment Appeals. As already stated, that Board, composed of Acting Secretary of Finance Pedro M. Almanzor as chairman and Secretary of Justice Vicente Abad Santos and Secretary of Local Government and Community Development Jose Roño as members, ruled that the pipeline is subject to realty tax (p. 40, Rollo).

A copy of that decision was served on Meralco Securities' counsel on August 27, 1976. Section 36 of the Real Property Tax Code, Presidential Decree No. 464, which took effect on June 1, 1974, provides that the Board's decision becomes final and executory after the lapse of fifteen days from the date of receipt of a copy of the decision by the appellant.

Under Rule III of the amended rules of procedure of the Central Board of Assessment Appeals (70 O.G. 10085), a party may ask for the reconsideration of the Board's decision within fifteen days after receipt. On September 7, 1976 (the eleventh day), Meralco Securities filed its motion for reconsideration.

Secretary of Finance Cesar Virata and Secretary Roño (Secretary Abad Santos abstained) denied the motion in a resolution dated December 2, 1976, a copy of which was received by appellant's counsel on May 24, 1977 (p. 4, Rollo). On June 6, 1977, Meralco Securities filed the instant petition for certiorari.

The Solicitor General contends that certiorari is not proper in this case because the Board acted within its jurisdiction and did not gravely abuse its discretion and Meralco Securities was not denied due process of law.

Meralco Securities explains that because the Court of Tax Appeals has no jurisdiction to review the decision of the Central Board of Assessment Appeals and because no judicial review of the Board's decision is provided for in the Real Property Tax Code, Meralco Securities' recourse is to file a petition for certiorari.

We hold that certiorari was properly availed of in this case. It is a writ issued by a superior court to an inferior court, board or officer exercising judicial or quasi-judicial functions whereby the record of a particular case is ordered to be elevated for review and correction in matters of law (14 C.J.S. 121-122; 14 Am Jur. 2nd 777).

The rule is that as to administrative agencies exercising quasi-judicial power there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by the statute (73 C.J.S. 506, note 56).

"The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decisions" (73 C.J.S. 507, Sec. 165). The review is a part of the system of checks and balances which is a limitation on the separation of powers and which forestalls arbitrary and unjust adjudications.

Judicial review of the decision of an official or administrative agency exercising quasi-judicial functions is proper in cases of lack of jurisdiction, error of law, grave abuse of discretion, fraud or collusion or in case the administrative decision is corrupt, arbitrary or capricious (*Mafinco Trading Corporation vs. Ople*, L-37790, March 25, 1976, 70 SCRA 139, 158; *San Miguel Corporation vs. Secretary of Labor*, L-39195, May 16, 1975, 64 SCRA 56, 60; *Mun. Council of Lemery vs. Prov. Board of Batangas*, 56 Phil. 260, 268).

The Central Board of Assessment Appeals, in confirming the ruling of the provincial assessor and the provincial board of assessment appeals that Meralco Securities' pipeline is subject to realty tax, reasoned out that the pipes are machinery or improvements, as contemplated in the Assessment Law and the Real Property Tax Code; that

they do not fall within the category of property exempt from realty tax under those laws; that articles 415 and 416 of the Civil Code, defining real and personal property, have no application to this case; that even under article 415, the steel pipes can be regarded as realty because they are constructions adhered to the soil and things attached to the land in a fixed manner and that Meralco Securities is not exempt from realty tax under the Petroleum Law (pp. 36-40).

Meralco Securities insists that its pipeline is not subject to realty tax because it is not real property within the meaning of article 415. This contention is not sustainable under the provisions of the Assessment Law, the Real Property Tax Code and the Civil Code.

Section 2 of the Assessment Law provides that the realty tax is due "on real property, including land, buildings, machinery, and other improvements" not specifically exempted in section 3 thereof. This provision is reproduced with some modification in the Real Property Tax Code which provides:

"SEC. 38. Incidence of Real Property Tax. - There shall be levied, assessed and collected in all provinces, cities and municipalities an annual ad valorem tax on real property, such as land, buildings, machinery and other improvements affixed or attached to real property not hereinafter specifically exempted."[*]

It is incontestable that the pipeline of Meralco Securities does not fall within any of the classes of exempt real property enumerated in section 3 of the Assessment Law and section 40 of the Real Property Tax Code.

Pipeline means a line of pipe connected to pumps, valves and control devices for conveying liquids, gases or finely divided solids. It is a line of pipe running upon or in the earth, carrying with it the right to the use of the soil in which it is placed (Note 21[10], 54 C.J.S. 561).

Article 415[1] and [3] provides that real property may consist of constructions of all kinds adhered to the soil and everything attached to an immovable in a fixed manner, in such a way that it cannot be separated therefrom without breaking the material or deterioration of the object.

The pipeline system in question is indubitably a construction adhering to the soil (Exh. B, p. 39, Rollo). It is attached to the land in such a way that it cannot be separated therefrom without dismantling the steel pipes which were welded to form the pipeline.

Insofar as the pipeline uses valves, pumps and control devices to maintain the flow of oil, it is in a sense machinery within the meaning of the Real Property Tax Code.

It should be borne in mind that what are being characterized as real property are not the steel pipes but the pipeline system as a whole. Meralco Securities has apparently two pipeline systems.

A pipeline for conveying petroleum has been regarded as real property for tax purposes (Miller County Highway, etc., Dist. vs. Standard Pipe Line Co., 19 Fed. 2nd 3; Board of Directors of Red River Levee Dist. No. 1 of Lafayette County, Ark. vs. R. F. C., 170 Fed. 2nd 430; 50 C. J. 750, note 86).

The other contention of Meralco Securities is that the Petroleum Law exempts it from the payment of realty taxes. The alleged exemption is predicated on the following provisions of that law which exempt Meralco Securities from local taxes and make it liable for taxes of general application:

"ART. 102. Work obligations, taxes, royalties not to be changed. - Work obligations, special taxes and royalties which are fixed by the provisions of this Act or by the concession for any of the kinds of concessions to which this Act relates, are considered as inherent on such concessions after they are granted, and shall not be increased or decreased during the life of the concession to which they apply; nor shall any other special taxes or levies be applied to such concessions, nor shall concessionaires under this Act be subject to any provincial,

municipal or other local taxes or levies; nor shall any sales tax be charged on any petroleum produced from the concession or portion thereof, manufactured by the concessionaire and used in the working of his concession. All such concessionaires, however, shall be subject to such taxes as are of general application, in addition to taxes and other levies specifically provided in this Act."

Meralco Securities argues that the realty tax is a local tax or levy and not a tax of general application. This argument is untenable because the realty tax has always been imposed by the lawmaking body and later by the President of the Philippines in the exercise of his lawmaking powers, as shown in sections 342 et seq. of the Revised Administrative Code, Act No. 3995, Commonwealth Act No. 470 and Presidential Decree No. 464.

The realty tax is enforced throughout the Philippines and not merely in a particular municipality or city but the proceeds of the tax accrue to the province, city, municipality and barrio where the realty taxed is situated (Sec. 86, P.D. No. 464). In contrast, a local tax is imposed by the municipal or city council by virtue of the Local Tax Code, Presidential Decree No. 231, which took effect on July 1, 1973 (69 O.G. 6197).

We hold that the Central Board of Assessment Appeals did not act with grave abuse of discretion, did not commit any error of law and acted within its jurisdiction in sustaining the holding of the provincial assessor and the local board of assessment appeals that Meralco Securities' pipeline system in Laguna is subject to realty tax.

WHEREFORE, the questioned decision and resolution are affirmed. The petition is dismissed. No costs.

SO ORDERED.

Barredo, (Chairman), Guerrero, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., and Abad Santos, JJ., not part.

[*] The Real Property Tax Code contains the following definitions in its section 3:

"k) Improvements - is a valuable addition made to property or an amelioration in its condition, amounting to more than mere repairs or replacement of waste, costing labor or capital and intended to enhance its value, beauty or utility or to adapt it for new or further purposes."

"m) Machinery - shall embrace machines, mechanical contrivances, instruments, appliances and apparatus attached to the real estate. It includes the physical facilities available for production, as well as the installations and appurtenant service facilities, together with all other equipment designed for or essential to its manufacturing, industrial or agricultural purposes." (See sec. 3[f], Assessment Law).

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