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SECOND DIVISION

[G.R. No. 183416, October 05, 2016]

PROVINCIAL ASSESSOR OF AGUSAN DEL SUR, PETITIONER, VS. FILIPINAS PALM OIL PLANTATION, INC., RESPONDENT.

D E C I S I O N

LEONEN, J.:

The exemption from real property taxes given to cooperatives applies regardless of whether or not the land owned is leased. This exemption benefits the cooperative's lessee. The characterization of machinery as real property is governed by the Local Government Code and not the Civil Code.

This Petition[1] for review assails the Decision[2] dated September 26, 2007 and the Resolution[3] dated May 26, 2008 of the Court of Appeals in CA-G.R. SP No. 74060. The Court of Appeals affirmed the Decision of the Central Board of Assessment Appeals (CBAA) exempting Filipinas Palm Oil Plantation Inc. from payment of real property taxes.[4]

Filipinas Palm Oil Plantation Inc. (Filipinas) is a private organization engaged in palm oil plantation[5] with a total land area of more than 7,000 hectares of National Development Company (NDC) lands in Agusan del Sur.[6] Harvested fruits from oil palm trees are converted into oil through Filipinas' milling plant in the middle of the plantation area.[7] Within the plantation, there are also three (3) plantation roads and a number of residential homes constructed by Filipinas for its employees.[8]

After the Comprehensive Agrarian Reform Law[9] was passed, NDC lands were transferred to Comprehensive Agrarian Reform Law beneficiaries who formed themselves as the merged NDC-Guthrie Plantations, Inc. - NDC-Guthrie Estates, Inc. (NGPI-NGEI) Cooperatives.[10] Filipinas entered into a lease contract agreement with NGPI-NGEI.[11]

The Provincial-Assessor of Agusan del Sur (Provincial Assessor) is a government agency in charge with the assessment of lands under the public domain.[12] It assessed Filipinas'

properties found within the plantation area,[13] which Filipinas assailed before the Local Board of Assessment Appeals (LBAA) on the following grounds:

> (1.) The [petitioner] Provincial Assessors of Agusan del Sur ERRED in finding that the Market Value of a single fruit bearing oil palm tree is P207.00 when it should only be P42.00 pesos per tree;
>
> (2.) The [petitioner] ERRED in finding that the total number of standing and fruit bearing oil palm tree is PI 10 [sic] trees per hectare when it should be only 92 trees;
>
> (3.) The [petitioner] ERRED in finding that the Market Value[s] of the plantation roads are:
>
> A.) P270,000.00 per kilometer for primary roads
> B.) P135,000.00 for secondary roads
> C.) P67,567.00 for tertiary roads constructed by the company.
>
> It should only be:
>
> A.) P105,000.00 for primary roads
> B.) P52,300.00 for secondary roads
> C.) P26,250.00 for tertiary roads
>
> Likewise, bridges, culverts, canals and pipes should not be assessed separately from plantation roads, the same being components of the roads thereof;
>
> (4.) *The [petitioner] ERRED in imposing real property taxes against the petitioner for roads, bridges, culverts, pipes and canals as these belonged to the cooperatives;*
>
> ([5].) The [petitioner] ERRED in finding that the Market Value of NDC service area is P11,000.00 per hectare when it should only be P6,000.00 per hectare;
>
> ([6].) The [petitioner] ERRED in imposing realty taxes on Residential areas built by [respondent] except for three of them;
>
> ([7].) *The [petitioner] ERRED when it included haulers and other equipments [sic] which are unmovable as taxable real properties*.[14]

In its Decision[15]dated June 8, 1999, the LBAA found that the P207.00 market value declared in the assessment by the Provincial Assessor was unreasonable.[16] It found that the market value should not have been more than P85.00 per oil palm tree.[17] The sudden

increase of realty tax assessment level from P42.00 for each oil palm tree in 1993 to P207.00 was confiscatory.[18]

The LBAA adopted Filipinas' claim that the basis for assessment should only be 98 trees.[19] Although one (1) hectare of land can accommodate 124 oil palm trees, the mountainous terrain of the plantation should be considered.[20] Because of the terrain, not every meter of land can be fully planted with trees.[21] The LBAA found that roads of any kind, as well as all their improvements, should not be taxed since these roads were intermittently used by the public.[22] It resolved that the market valuation should be based on the laws of the Department of Agrarian Reform since the area is owned by the NDC, a quasi-governmental body of the Philippines.[23]

The LBAA exempted the low-cost housing units from taxation except those with a market value of more than P150,000.00 under the Local Government Code.[24] Finally, the LBAA considered the road equipment and mini haulers as movables that are vital to Filipinas' business.

Filipinas appealed before the CBAA on July 16, 1999.[26] On November 21, 2001, the CBAA rendered a decision, the dispositive portion of which reads:

> WHEREFORE, this Board has decided to set aside, as it does hereby set aside, the decision rendered by the Local Board of Assessment Appeals of the Province of Agusan del Sur on June 8, 1999 in an unnumbered case entitled "[F]ilipinas Palm Oil Co., Inc. Petitioner, versus the Provincial Assessors Office of Agusan del Sur, Respondent" and hereby orders as follows:
>
> A. The market value for each oil palm tree should be FIFTY- SEVEN & 55/100 PESOS (57.55), effective January 1, 1991. The assessment for each municipality shall be based on the corresponding number of trees as listed in Petitioner-Appellee's "Hectarage Statement" discussed hereinabove;
>
> B. *Petitioner-Appellee should not be made to pay for the real property taxes due on the roads starting from January 1, 1991;*
>
> C. *Petitioner-Appellee is not liable to the Government for real property taxes on the lands owned by the Multi-purpose Cooperative;*
>
> D. The housing units with a market value of PI75,000.00 or less each shall be subjected to 0% assessment level, starting 1994;
>
> E. *Road Equipment and haulers are not real properties and, accordingly, Petitioner-Appellee is not liable for real property tax thereon;*

> F. Any real property taxes already paid by Petitioner-Appellee which, by virtue "of this decision, were not due, shall be applied to future taxes rightfully due from Petitioner-Appellee.
>
> SO ORDERED.[27] (Emphasis supplied)

The CBAA denied the Motion for Reconsideration filed by the Provincial Assessor.[28] The Provincial Assessor filed a Petition for Review before the Court of Appeals, which, in turn, sustained the CBAA's Decision.[29]

The Court of Appeals held that the land owned by NGPI-NGEI, which Filipinas has been leasing, cannot be subjected to real property tax since these are owned by cooperatives that are tax-exempt.[30] Section 133(n) of the Local Government Code provides:

> SECTION 133. *Common Limitations on the Taxing Powers of Local Government Units*. — Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:
> . . . .
>
> > (n) Taxes, fees, or charges, on Countryside and Barangay Business Enterprises and *cooperatives duly registered under R.A. No. 6810* and Republic Act Numbered Sixty-nine hundred thirty-eight (R.A. No. 6938) otherwise known as the "Cooperative Code of the Philippines." (Emphasis supplied)

Section 234(d) of the Local Government Code exempts duly registered cooperatives, like NGPI-NGEI, from payment of real property taxes:

> SECTION 234. *Exemptions from Real Property Tax*. — The following are exempted from payment of the real property tax:
> . . . .
>
> > (d) *All real property owned by duly registered cooperatives as provided for under R.A. No. 6938*[.] (Emphasis supplied)

The Court of Appeals held that the pertinent provisions "neither distinguishes nor

specifies" that the exemption only applies to real properties used by the cooperatives.[31] It ruled that "[t]he clear absence of any restriction or limitation in the provision could only mean that the exemption applies to wherever the properties are situated and to whoever uses them."[32] Therefore, the exemption privilege extends to Filipinas as the cooperatives' lessee.[33]

On the roads constructed by Filipinas, the Court of Appeals held that although it is undisputed that the roads were built primarily for Filipinas' benefit, the roads should be tax-exempt since these roads were also being used by the cooperatives and the public.[34] It applied, by analogy, *Bislig Bay Lumber Company, Inc. v. Provincial Government of Surigao*:[35]

> We are inclined to uphold the theory of appellee. In the first place, it cannot be disputed that the ownership of the road that was constructed by appellee belongs to the government by right accession not only because it is inherently incorporated or attached to the timber land leased to appellee but also because upon the expiration of the concession, said road would ultimately pass to the national government. In the second place, while the road was constructed by appellee primarily for its use and benefit, the privilege is not exclusive, for, under the lease contract entered into by the appellee and the government and by public in by the general. Thus, under said lease contract, appellee cannot prevent the use of portions, of the concession for homesteading purposes. It is also in duty bound to allow the free use of forest products within the concession for the personal use of individuals residing in or within the vicinity of the land. . . . In other words, the government has practically reserved the rights to use the road to promote its varied activities. Since, as above shown, the road in question cannot be considered as an improvement which belongs to appellee, although in part is for its benefit, it is clear that the same cannot be the subject of assessment within the meaning of section 2 of Commonwealth Act No. 470.[36] (Citations omitted)

Furthermore, the Court of Appeals agreed with the CBAA that the roads constructed by Filipinas had become permanent improvements on the land owned by NGPI-NGEI.[37] Articles 440 and 445 of the Civil Code provide that these improvements redound to the benefit of the land owner under the right of accession:[38]

> **Article 440**. The ownership of property gives the right by accession to everything which is produced thereby, or which is incorporated or attached thereto, either naturally or artificially.
> . . . .

> **Article 445**. Whatever is built, planted or sown on the land of another and the improvements or repairs made thereon, belong to the owner of the land, subject to the provisions of the following articles.

On the road equipment and mini haulers as real properties subject to tax, the Court of Appeals affirmed the CBAA's Decision that these are only movables.[39] Section 199(o) of the Local Government Code provides a definition of machinery subject to real property taxation:

> SECTION 199. *Definition of Terms*. — When used in this Title, the term:
> . . . .
>
> (o) "Machinery" embraces machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appurtenant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real property which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining.

The Court of Appeals held that Section 19^(o) of the Local Government Code should be construed to include machineries covered by the meaning of real properties provided for under Article 415(5) of the Civil Code:[40]

> **Article 415**. The following are immovable property:
> . . . .
>
> (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[.]

The Court of Appeals cited *Davao Sawmill Company v. Castillo,*[41] where it has been held that machinery that is movable by nature becomes immobilized only when placed by the owner of the tenement, but not so when placed by a tenant or any other person having a

temporary right unless this person acts as an agent of the owner.[42] Thus, the mini haulers and other road equipment retain their nature as movables.[43]

The Provincial Assessor filed before this Court a Petition for Review raising the following issues:

First, whether the exemption privilege of NGPI-NGEI from payment of real property tax extends to respondent Filipinas Palm Oil Plantation Inc. as lessee of the parcel of land owned by cooperatives; and

Second, whether respondent's road equipment and mini haulers are movable properties and have not been immobilized by destination for real property taxation.

Petitioner argues that based on *Mactan Cebu International Airport Authority v. Ferdinand J. Marcos*,[44] cooperatives cannot extend its exemption from real property tax to taxable persons.[45] It argues that Sections 198, 199, 205, and 217 of the Local Government Code provide that real property taxes are assessed based on actual use.[46] Moreover, the exemption of cooperatives applies only when it is the cooperative that actually, directly, and exclusively uses and possesses the properties.[47] Sections 198, 199, 205, and 217 of the Local Government Code provide:

> SECTION 198. *Fundamental Principles.* — The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:
> . . . .
> (b) *Real property shall be classified for assessment purposes on the basis of its actual use[.]*
> . . . .
> SECTION 199. Definition of Terms. — When used in this Title, the term:
> . . . .
> (b) "Actual Use" refers to the *purpose for which the property is principally or predominantly utilized by the person in possession thereof*[.]
> . . . .
> SECTION 205. *Listing of Real Property in the Assessment Rolls.* —
> . . . .
> (d) Real property owned by the Republic of the Philippines, its instrumentalities and political subdivisions, *the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee or of the public entity if such property has been acquired or held for resale or lease.*
> . . . .
>
> SECTION 217. *Actual Use of Real Property as Basis for Assessment.* — *Real*

property shall be classified, valued and assessed on the basis of its actual use regardless of where located, whoever owns it, and whoever uses it. (Emphasis supplied)

Petitioner claims that Section 199(o) of the Local Government Code specifically covers respondent's road equipment and mini haulers since these are directly and exclusively used to meet the needs of respondent's industry, business, or activity.[48] Article 415(5) of the Civil Code, which defines real property, should not be made to control the Local Government Code,[49] a subsequent legislation that specifically defines "machinery" for taxation purposes.[50]

In the Resolution[51] dated October 13, 2008, this Court denied the Petition for Review due to procedural missteps, which included the failure to attach legible duplicate original or certified true copies of the assailed decision and failure to pay proper fees. On November 25, 2008, petitioner moved for reconsideration,[52] praying for the reversal of the Petition's denial due to mere technicalities.

On January 26, 2009, this Court granted Petitioner's Motion for Reconsideration.[53] It directed the reinstatement of the Petition and required respondent to comment.[54]

On November 20, 2009, respondent filed its Comment.[55]

Respondent reiterates the rulings of the CBAA and the Court of Appeals that the exemption of cooperatives from real property taxes extends to it as the lessee.[56] It asserts that under its lease agreement with NGPI-NGEI, it pays an Annual Fixed Rental, which includes the payment of taxes.[57] It claims that in case NGPI-NGEI is liable to the local government for real property tax on the land, the tax should be taken from the Annual Fixed Rental.[58] To make respondent pay real property taxes on the leased land would be equivalent to assessing it twice for the same property.[59]

On the road equipment and mini haulers being subjected to real property taxation, respondent maintains that it should be spared from real property tax since the equipment and mini haulers are movables.[60]

The Petition is granted to modify the Court of Appeals Decision, but only with respect to the nature of respondent's road equipment and mini haulers.

Under Section 133(n) of the Local Government Code, the taxing power of local government units shall not extend to the levy of taxes, fees, or charges on duly registered cooperatives under the Cooperative Code.[61] Section 234(d) of the Local Government

Code specifically provides for real property tax exemption to cooperatives:

> SECTION 234. *Exemptions from Real Property Tax*. — The following are *exempted* from payment of the real property tax:
> . . . .
>
> (d) *All real property owned by duly registered cooperatives as provided for under [Republic Act]* No. 6938[.] (Emphasis supplied)

NGPI-NGEI, as the owner of the land being leased by respondent, falls within the purview of the law. Section 234 of the Local Government Code exempts all real property owned by cooperatives without distinction. Nothing in the law suggests that the real property tax exemption only applies when the property is used by the cooperative itself. Similarly, the instance that the real property is leased to either an individual or corporation is not a ground for withdrawal of tax exemption.[62]

In arguing the first issue, petitioner hinges its claim on a misplaced reliance in Mactan, which refers to the revocation of tax exemption due to the effectivity of the Local Government Code. However, Mactan does not refer to the tax exemption extended to cooperatives. The portion that petitioner cited specifically mentions that the exemption granted to cooperatives has not been withdrawn by the effectivity of the Local Government Code:

> [S]ection 232 must be deemed to qualify Section 133.
>
> Thus, reading together Sections 133, 232, and 234 of the L[ocal] G[overnment] C[ode], we conclude that as a general rule, as laid down in Section 133, the taxing powers of local government units cannot extend to the levy of, *inter alia,* "taxes, fees and charges of any kind on the National Government, its agencies and instrumentalities, and local government units"; however, pursuant to Section 232, provinces, cities, and municipalities in the Metropolitan Manila Area may impose the real property tax except on, *inter alia*, "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 or otherwise, to a taxable person," as provided in item (a) of the first paragraph of Section 234.
>
> As to tax exemptions or incentives granted to or presently enjoyed by natural or juridical persons, including government-owned and controlled corporations, Section 193 of the L[ocal] G[overnment] C[ode] prescribes the general rule, *viz*., they are *withdrawn* upon the effectivity of the L[ocal] G[overnment] C[ode], *except* those granted to local water districts, cooperatives duly

registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, and unless otherwise provided in the L[ocal] Gfovernment] C[ode]. The latter proviso could refer to Section 234 which enumerates the properties exempt from real property tax. But the last paragraph of Section 234 further qualifies the retention of the exemption insofar as real property taxes are concerned by limiting the retention only to those enumerated therein; all others not included in the enumeration lost the privilege upon the effectivity of the L[ocal] G[overnment] C[ode]. *Moreover, even as to real property owned by the Republic of the Philippines or any of its political subdivisions covered by item (a) of the first paragraph of Section 234, the exemption is withdrawn if the beneficial use of such property has been granted to a taxable person for consideration or otherwise.*

Since the last paragraph of Section 234 unequivocally withdrew, upon the effectivity of the L[ocal] G[overnment] C[ode], exemptions from payment of real property taxes granted to natural or juridical persons, including government-owned or controlled corporations, except as provided in the said section, and the petitioner is, undoubtedly, a government-owned corporation, *it necessarily follows that its exemption from such tax granted it in Section 14 of its Charter, R.A. No. 6958, has been withdrawn. Any claim to the contrary can only be justified if the petitioner can seek refuge under any of the exceptions provided in Section 234, but not under Section 133, as it now asserts, since, as shown above, the said section is qualified by Sections 232 and 234.*

In short, the petitioner can no longer invoke the general rule in Section 133 that the taxing powers of the local government units cannot extend to the levy of:

> (o) taxes, fees or charges of any kind on the National Government, its agencies or instrumentalities, and local government units.

It must show that the parcels of land in question, which are real property, are any one of those enumerated in Section 234, either by virtue of ownership, character, or use of the property.[63] (Emphasis supplied)

The roads that respondent constructed within the leased area should not be assessed with real property taxes. *Bislig Bay* finds application here. Bislig Bay Lumber Company, Inc. (Bislig Bay) was a timber concessionaire of a portion of public forest in the provinces of Agusan and Surigao.[64] To aid in developing its concession, Bislig Bay built a road at its expense from a barrio leading towards its area.[65] The Provincial Assessor of Surigao assessed Bislig Bay with real property tax on the constructed road, which was paid by the company under protest.[66] It claimed that even if the road was constructed on public land, it should be subjected to real property tax because it was built by the company for its own

benefit.[67] On the other hand, Bislig Bay asserted that the road should be exempted from real property tax because it belonged to national government by right of accession.[68] Moreover, the road constructed already became an inseparable part of the land.[69] The records also showed that the road was not only built for the benefit of Bislig Bay, but also of the public.[70] This Court ruled for Bislig Bay, thus:

> We are inclined to uphold the theory of appellee. In the first place, it cannot be disputed that the ownership of the road that was constructed by appellee belongs to the government by right accession not only because it is inherently incorporated or attached to the timber land leased to appellee but also because upon the expiration of the concession, said road would ultimately pass to the national government. ... In the second place, while the road was constructed by appellee primarily for its use and benefit, the privilege is not exclusive, for, under the lease contract entered into by the appellee and the government and by public in by the general. Thus, under said lease contract, appellee cannot prevent the use of portions, of the concession for homesteading purposes. ... It is also in duty bound to allow the free use of forest products within the concession for the personal use of individuals residing in or within the vicinity of the land. ... In other words, the government has practically reserved the rights to use the road to promote its varied activities. Since, as above shown, the road in question cannot be considered as an improvement which belongs to appellee, although in part is for its benefit, it is clear that the same cannot be the subject of assessment within the meaning of section 2 of Commonwealth Act No. 470.[71]

This was reiterated in *Board of Assessment Appeals ofZamboanga del Sur v. Samar Mining Company, Inc.*[72] Samar Mining Company, Inc. (Samar Mining) was a domestic corporation engaged in the mining industry.[73] Since Samar Mining's mining site and mill were in an inland location entailing long distance from its area to the loading point, Samar Mining was constrained to construct a road for its convenience.[74] Initially, Samar Mining filed miscellaneous lease applications for a road right of way covering lands under the jurisdiction of the Bureau of Lands and the Bureau of Forestry where the proposed road would pass through.[75] Samar Mining was given a "temporary permit to occupy and use the lands applied for by it";[76] hence, it was able to build what was eventually known as the Samico Road. Samar Mining was assessed by the Provincial Assessor of Zamboanga del Sur with real property taxes on the road, which prompted it to appeal before the Board of Assessment Appeals.[77] Invoking *Bislig Bay,* Samar Mining claimed that it should not be assessed with real property tax since the road was constructed on public land. This Court ruled for Samar Mining, thus:

> There is no question that the road constructed by respondent Saimar on the public lands leased to it by the government is an improvement. But as to whether the same is taxable under the aforequoted provision of the Assessment Law, this question has already been answered in the negaitive by this Court. In the case of Bislig Bay Lumber Co., Inc. vs. Provincial Government of Surigao, where a similar issue was raised. . ..
> . . . .
>
> . . . *What is emphasized in the Bislig case is that the improvement is exempt from taxation because it is an integral part of the public land on which it is constructed and the improvement is the property of the government by right of accession. Under Section 3(a) of the Assessment Law, all properties owned by the government, without any distinction, are exempt from taxation*.[79] (Emphasis supplied, citations omitted)

The roads that respondent constructed became permanent improvements on the land owned by the NGPI-NGEI by right of accession under the Civil Code, thus:

> **Article 440**. The ownership of property gives the right by accession to everything which is produced thereby, or which is *incorporated or attached thereto, either naturally or artificially.*
> . . . .
> **Article 445**. Whatever is built, planted or sown on the land of another and the improvements or repairs made thereon, *belong to the owner of the land*[.]

Despite the land being leased by respondent when the roads were constructed, the ownership of the improvement still belongs to NGPI-NGEI. As provided under Article 440 and 445 of the Civil Code, the land is owned by the cooperatives at the time respondent built the roads. Hence, whatever is incorporated in the land, either naturally or artificially, belongs to the NGPI-NGEI as the landowner.

Although the roads were primarily built for respondent's benefit, the roads were also being used by the members of NGPI and the public.[80] Furthermore, the roads inured to the benefit of NGPI-NGEI as owners of the land not only by right of accession but through the express provision in the lease agreement:

> On March 7, 1990 NGPI Multi-Purpose Cooperative, Inc., as Lessor, and NDC-Guthrie Plantations, Inc., as Lessee, entered into a "Lease Agreement" . . . covering the agricultural lands transferred by NDC to the DAR, which lands the DAR ultimately distributed undivided to qualified workers-beneficiaries. . . .
> . . . .

Clause No. 6.3 of the same lease agreement provides that "All taxes due on the improvements on the Leased Property except those improvements on the Area that the LESSOR shall have utilized under Clause 1.2 hereof, shall be for the account of the LESSEE."

Clause No. 9.4 of the same lease agreement provides that ". . . *All fixed and permanent improvements, such as roads and palm trees introduced on the Leased Property, shall automatically accrue to the LESSOR upon termination of this Lease Agreement without need of reimbursement*."

All the above-cited stipulations in the lease agreement between NGPI Multi-Purpose Cooperative and NDC-Guthrie Plantations, Inc. *were reconfirmed and reaffirmed in the Addendum to Lease Agreement entered into by and between NGPI Multi-Purpose Cooperative and Filipinas Palmoil Plantations, Inc. on January 30, 1998*. . . . The main subject of the said Addendum was the extension of the term of the lease agreement up to December 31, 2032, along with economic benefits to the lessor other than rentals.

There is no dispute that the roads are on the land owned by NGPI Multi-Purpose Cooperative which leased the same to Petitioner-Appellee. These roads belong to the Multi-Purpose Cooperative, not only by right of accession but also by express provisions of the Contract of Lease[.][81]

Respondent claims that under its lease agreement with NGPI-NGEI, it pays an Annual Fixed Rental, which includes the payment of taxes.[82] If NGPI-NGEI were liable to the local government for real property tax on the land, the tax should be taken from the Annual Fixed Rental:

"2.1. In consideration of this Lease Agreement, the LESSEE shall pay the LESSOR the following annual rentals:

"1) An annual fixed rental, in the following amount — "SIX HUNDRED THIRTY FIVE PESOS" (P635.00) PER HECTARE PER ANNUM which would cover the following:

"(1) *All Taxes on the Land*
"(2) Administration Charges
"(3) Amortization charges

"It is understood that, if the annual fixed rental of "SIX HUNDRED THIRTY FIVE PESOS" (p 635.00) is insufficient to pay any increase on the land taxes, the Lessee shall pay the difference, provided such

increase does not exceed ten percent (10%) of the immediately preceding tax imposed on the land; provided further, that any increase beyond these percentage shall be borne equally by the LESSOR and LESSEE.

"The foregoing notwithstanding, it is understood and agreed that at all times, liability *for realty taxes on the Leased Property Primarily and principally lies with the LESSOR and any reference herein to payment by LESSEE of said taxes is only for purposes of earmarking the proceeds of the rentals herein agreed upon.*"

Clause No. 6.3 of the same lease agreement provides that "All taxes due on the improvements on the Leased Property except those improvements on the Area that the LESSOR shall have utilized under Clause 1.2 hereof, shall be for the account of the LESSEE."[83] (Emphasis supplied)

Therefore, NGPI-NGEI, as owner of the roads that permanently became part of the land being leased by respondent, shall be liable for real property taxes, if any. However, by express provision of the Local Government Code, NGPI-NGEI is exempted from payment of real property tax.[84]

II

The road equipment and mini haulers shall be considered as real property, subject to real property tax.

Section 199(o) of the Local Government Code defines "machinery" as real property subject to real property tax,[85] thus:

SECTION 199. *Definition of Terms*. — When used in this Title, the term:
. . . .

(o) "Machinery" embraces machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appurtenant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real property which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining, logging, commercial, industrial or

agricultural purposes[.]

Article 415(5) of the New Civil Code defines "machinery" as that which constitutes an immovable property:

> Article 415. The following are *immovable property:*
> . . . .
> (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[.] (Emphasis supplied)

Petitioner contends that the second sentence of Section 199(o) includes the road equipment and mini haulers since these are directly and exclusively used by respondent to meet the needs of its operations.[86] It further claims that Article 415(5) of the New Civil Code should not control the Local Government Code, a subsequent legislation.[87]

On the other hand, respondent claims that the road equipment and mini haulers are movables by nature. It asserts that although there may be a difference between the meaning of "machinery" under the Local Government Code arid that of immovable property under Article 415(5) of the Civil Code, "the controlling interpretation of Section 199(o) of [the Local Government Code] is the interpretation of Article 415(5) of the Civil Code."[88]

In *Manila Electric Company v. City Assessor*,[89] a similar issue of which definition of "machinery" prevails to warrant the assessment of real property tax on it was raised.

Manila Electric Company (MERALCO) insisted on harmonizing the provisions of the Civil Code and the Local Government Code and asserted that "machinery" contemplated under Section 199(o) of the Local Government must still be within the contemplation of immovable property under Article 415 of the Civil Code.[90] However, this Court ruled that harmonizing such laws "would necessarily mean imposing additional requirements for classifying machinery as real property for real property tax purposes not provided for, or even in direct conflict with, the provisions of the Local Government Code."[91] Thus:

> While the Local Government Code still does not provide for a specific definition of "real property," Sections 199(o) and 232 of the said Code, respectively, gives an extensive definition of what constitutes "machinery" and unequivocally subjects such machinery to real property tax. The Court reiterates that the machinery subject to real property tax under the Local Government Code "may or may not be attached, permanently or temporarily to the real

property"; and the physical facilities for production, installations, and appurtenant service facilities, those which are mobile, self-powered or self-propelled, or are not permanently attached must (a) be actually, directly, and exclusively used to meet the needs of the particular industry, business, or activity; and (b) by their very nature and purpose, be designed for, or necessary for manufacturing, mining, logging, commercial, industrial, or agricultural purposes.

. . . .

Article 415, paragraph (5) of the Civil Code considers as immovables or real properties "[m]achinery, 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." The Civil Code, however, does not define "machinery."

The properties under Article 415, paragraph (5) of the Civil Code are immovables by destination, or "those which are essentially movables, but by the purpose for which they have been placed in an immovable, partake of the nature of the latter because of the added utility derived therefrom." These properties, including *machinery, become immobilized if the following requisites concur: (a) they are placed in the tenement by the owner of such tenement; (b) they are destined for use in the industry or work in the tenement; and (c) they tend to directly meet the needs of said industry or works.* The first two requisites are not found anywhere in the Local Government Code.[92] (Emphasis supplied, citations omitted)

Section 199(o) of the Local Government prevails over Article 415(5) of the Civil Code. In Manila Electric Company:

As between the Civil Code, a general law governing property and property relations, and the Local Government Code, a special law granting local government units the power to impose real property tax, then the latter shall prevail. As the Court pronounced in Disomangcop v. The Secretary of the Department of Public Works and Highways Simeon A. Datumanong:

> It is a finely-imbedded principle in statutory construction that a special provision or law prevails over a general one. *Lex specialis derogant generali*. As this Court expressed in the case of *Leveriza v. Intermediate Appellate Court,* "another basic principle of statutory construction mandates that *general legislation must give way to special legislation on the same subject, and generally be so interpreted as to embrace only cases in which the special provisions are not applicable, that specific statute prevails over a general*

statute and that where two statutes are of equal theoretical application to a particular case, the one designed therefor specially should prevail."

The Court also very clearly explicated in *Vinzons-Chato v. Fortune Tobacco Corporation* that:

> A general law and a special law on the same subject are statutes in *pari materia* and should, accordingly, *be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.*
>
> The circumstance that the special law is passed before or after the general act does not change the principle. Where the special law is later, it will be regarded as an exception to, or a qualification of, the prior general act; and where the general act is later, the special statute will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication.

Furthermore, in *Caltex (Philippines), Inc. v. Central Board of Assessment Appeals*, the Court acknowledged that "[i]t is a familiar phenomenon to see things classed as real property for purposes of taxation which on general principle might be considered personal property[.]"

Therefore, for determining whether machinery is real property subject to real property tax, the definition and requirements under the Local Government Code are controlling.[93] (Emphasis supplied, citations omitted)

Respondent is engaged in palm oil plantation.[94] Thus, it harvests fruits from palm trees for oil conversion through its milling plant.[95] By the nature of respondent's business, transportation is indispensable for its operations.

Under the definition provided in Section 199(o) of the Local Government Code, the road equipment and the mini haulers are classified as machinery, thus:

SECTION 199. *Definition of Terms*. — When used in this Title, the terra:
. . . .

> (o) "Machinery" . . . includes the ***physical facilities for production***, the installations and appurtenant service facilities, ***those which are mobile***, self-powered or self-propelled, and those not permanently attached to the real property ***which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity*** and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining, logging, commercial, industrial or agricultural purposes [.] (Emphasis supplied)

Petitioner is correct in claiming that the phrase pertaining to physical facilities for production is comprehensive enough to include the road equipment and mini haulers as actually, directly, and exclusively used by respondent to meet the needs of its operations in palm oil production.[96] Moreover, "mini-haulers are farm tractors pulling attached trailers used in the hauling of seedlings during planting season and in transferring fresh palm fruits from the farm [or] field to the processing plant within the plantation area."[97] The indispensability of the road equipment and mini haulers in transportation makes it actually, directly, and exclusively used in the operation of respondent's business.

In its Comment, respondent claims that the equipment is no longer vital to its operation because it is currently employing equipment outside the company to do the task.[98] However, respondent never raised this contention before the lower courts. Hence, this is a factual issue of which this Court cannot take cognizance. This Court is not a trier of facts.[99] Only questions of law are entertained in a petition for review assailing a Court of Appeals decision.[100]

WHEREFORE, the Petition is **PARTLY GRANTED**. The Decision of the Court of Appeals dated September 26, 2007 and the Resolution dated May 26, 2008 in CA-G.R. SP No. 74060 are **AFFIRMED with MODIFICATION**, in that the road equipment and the mini haulers should be assessed with real property taxes.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, , and *Mendoza, JJ.*, concur.
Brion, J., on leave.

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[1] *Rollo*, pp. 19-32.

[2] Id. at 76-89. The Decision was penned by Associate Justice Edgardo A. Camello (Chair) and concurred in by Associate Justices Jane Aurora C. Lantion and Elihu A. Ybanez of the Twenty-Third Division, Court of Appeals, Cagayan de Oro.

[3] Id. at 91-92. The Resolution was penned by Associate Justice Edgardo A. Camello (Chair) and concurred in by Associate Justices Jane Aurora C. Lantion and Elihu A. Ybanez of the Twenty-third Division, Court of Appeals, Cagayan de Oro.

[4] Id. at 89.

[5] Id. at 77.

[6] Id.

[7] Id.

[8] Id.

[9] Rep. Act No. 6657 (1988).

[10] *Rollo*, p. 77. See Case Study on Lease Rental Arrangement http://www.dar.gov.ph/downloads/category/93-Case%20Study%20on%20Agribusiness%20Ventures%20Arrangements%20(AVAs)?download=898:AVA_NGEPI%20&NGEI_Agusan_del_Sur (visited October 1, 2016).

[11] Id.

[12] Id.

[13] Id.

[14] Id. at 77-78.

[15] Id. at 147-154.

[16] Id. at 149.

[17] Id.

[18] Id.

[19] Id. at 150.

[20] Id.

[21] Id.

[22] Id.

[23] Id. at 151.

[24] Id. at 152.

[25] Id.

[26] Id. at 78.

[27] Id. at 78-79.

[28] Id at 79.

[29] Id.

[30] Id. at 83-85.

[31] Id. at 84.

[32] Id.

[33] Id. at 85.

[34] Id. at 86.

[35] 100 Phil. 303 (1956) [Per J. Bautista Angelo, En Bane].

[36] Id. at 306-307. *See rollo*, p. 85.

[37] Id. at 86.

[38] Id.

[39] Id. at 88.

[40] Id. at 87-8

[41] 61 Phil. 709 (1935) [Per J. Malcolm, En Banc].

[42] Id. at 714.

[43] Id. at 88.

[44] 330 Phil. 392 (1996) [Per J. Davide, Jr., Third Division].

[45] *Rollo,* p. 25.

[46] Id. at 26-27.

[47] Id. at 27.

[48] Id. at 28.

[49] Rep. Act No. 7160(1991).

[50] *Rollo*, p. 29.

[51] Id. at 68.

[52] Id. at 70-73.

[53] Id. at 108.

[54] Id.

[55] Id. at 160-164.

[56] Id. at 161.

[57] Id.

[58] Id.

[59] Id.

[60] Id. at 162.

[61] Rep. Act No. 6938(1990).

[62] *Rollo,* p. 84.

[63] 330 Phil. 392, 413-414 (1996) [Per J. Davide, Jr., Third Division].

[64] 100 Phil. 303 (1956) [Per J. Bautista Angelo, En Banc].

[65] Id. at 303-304.

[65] Id. at 304.

[67] Id.

[68] Id.

[69] Id.

[70] Id.

[71] Id. at 306-307.

[72] 147 Phil. 699 (1971) [Per J. Zaldivar, En Banc].

[73] Id. at 703.

[74] Id.

[75] Id.

[76] Id.

[77] Id. at 704.

[78] Id.

[79] Id. at 705-708.

[80] *Rollo,* p. 45.

[81] Id. at 132-134.

[82] Id. at 161.

[83] Id. at 133.

[84] LOCAL. GOVT. CODE, sec. 234(d).

[85] *Manila Electric Co. v. City Assessor,* G.R. No. 166102, August 5, 2015, 765 SCRA 52, 85 [Per J. Leonardo-de Castro, First Division].

[86] *Rollo*, p. 28.

[87] Id. at 29.

[88] Id. at 162.

[89] G.R. No. 166102, August 5, 2015, 765 SCRA 52 [Per J. Leonardo-de Castro, First Division].

[90] Id. at 94.

[91] Id.

[92] Id. at 92-94.

[93] Id. at 94-95.

[94] Rollo, p. 77.

[95] Id.

[96] Id. at 63.

[97] Id. at 63-64.

[98] Id. at 162.

[99] *Bernardo v. Court of Appeals*, 290 Phil. 649, 657 (1992) [Per J. Campos, Jr., Second Division]

[100] Id.
