Supreme Court E-Library

FIRST DIVISION

[G.R. No. 120435. December 22, 1997]

ESTATE OF THE LATE MERCEDES JACOB represented by MERCEDITA JACOB, DONATO JACOB, JR., ERENEO JACOB and LILIAN JACOB QUINTO, *petitioners, vs.* **COURT OF APPEALS, SPOUSES RAMON R. TUGBANG and VIRGINIA S. TUGBANG, REGISTER OF DEEDS OF QUEZON CITY and CITY TREASURER OF QUEZON CITY,** *respondents.*

[G.R. No. 120974. December 22, 1997]

CITY TREASURER OF QUEZON CITY, *petitioner, vs.* **COURT OF APPEALS and BERNARDITA C. TOLENTINO,** *respondents.*

SYNOPSIS

[G.R. No. 120435. December 22, 1997]

The land subject matter hereof owned by Mercedes Jacob and covered by Transfer Certificate of Title No. 39178 was sold at public auction to satisfy the tax delinquency of the land. Members of the Jacob family tried to redeem the property from buyer Virginia Tugbang but she evaded them until the Final Bill of Sale was issued to her. Petitioners, the heirs of the late Mercedes Jacob filed a complaint with the Regional Trial Court of Quezon City against respondent spouses Ramon R. Tugbang, for annulment or cancellation of the auction sale, the final Bill of Sale, TCT No. 81860, the new certificate of title issued to the Tugbangs and for redemption of the property plus damages. The trial court dismissed the petition purportedly for lack of jurisdiction as the petition according to the trial court is in reality a petition to annul and set aside the Decision rendered by the RTC, Quezon City, Br. 106, canceling Mercedes Jacob's TCT No. 39178 and consolidating title to the property to private respondent Virginia Tugbang, and ordering the issuance of new title in her favor. Petitioners filed a petition for review on *certiorari* with the Court but this Court referred it to the Court of Appeals. However, the appellate court dismissed the petition for lack of merit. This petition seeks the

Supreme Court E-Library

reversal of the Decision of the Court of Appeals and for judgment directing the RTC - Br. 82, Quezon City, to proceed with the trial of Civil Case.

The Supreme Court granted the petition. The Court ruled that a cursory examination of the petition readily shows that it is an action for reconveyance. The petition states that petitioners are not after the annulment of the judgment of the Regional Trial Court, Quezon City, Br. 106. The Regional Trial Court has jurisdiction over the petition as it may be considered only as a continuation of the original proceeding for cancellation of title in view of its non-litigious character is summary in nature.

[G.R. No. 120974. December 22, 1997]

Alberto Sta. Maria sold in 1964 a parcel of land covered by TCT. No. 68818 to Teresa L. Valencia who, as a consequence, had the title canceled and TCT No. 79818 issued in her name. She however failed to have the tax declaration transferred in her name. In 1973 Valencia sold the land on installment with a mortgage in favor of respondent Bernardito C. Tolentino. However, from 1979 to 1983 Valencia failed to pay the real estate taxes due on the land. As a result, the land was sold at a public auction to cover the tax delinquency. The spouses Romeo and Verna Chua bought the land in question. Thereafter, a certificate of sale was issued to the Chua spouses but it showed on its face that the land was still covered by TCT No. 68818 and not TCT No. 79818. Apparently, the Office of the City Treasurer was unaware that TCT No. 68818 had already been canceled by TCT No. 79818. However, in the Final Bill of Sale issued to the Chua spouses TCT No. 79818 still appeared in the name of Alberto Sta. Maria, the former owner. The Chua spouses filed a petition with the Regional Trial Court of Quezon City for the cancellation of TCT No. 79818 and the issuance of a new title in their name. The court granted their petition and TCT No. 357727 was issued in the name of the Chua spouses. In the meantime, Bernardita Tolentino paid in full the purchase price of the property and Teresa L. Valencia executed a deed of absolute sale in her favor. On 2 August 1988, in view of the fire that gutted the office of the Register of Deeds of Quezon City, Tolentino filed a petition for reconstitution of TCT No. 79818. As purchasers of the property in the auction sale, the Chuas demanded delivery of possession from Bernardito C. Tolentino and Teresa L. Valencia. As a consequence, Tolentino sued for annulment of the auction sale in the Regional

Supreme Court E-Library

Trial Court of Quezon City. The trial court granted the petition. The Court of Appeals affirmed the court *a quo*. Hence, this petition for review on *certiorari* by the City Treasurer of Quezon City.

The Supreme Court annulled the public auction sale and ordered the Register of Deeds of Quezon City to cancel TCT No. 357727 and issue in lieu thereof a new one in the name of respondent Bernardita C. Tolentino. The Court held that in ascertaining the identity of the delinquent taxpayer the City Treasurer should have not simply relied on the tax declaration. The property being covered by the Torrens System, it would have been more prudent for him to verify from the Office of the Register of Deeds of Quezon City where the property is situated and as to who the registered owner was at the time the auction sale was to take place, to determine who the real *delinquent taxpayer was* within the purview of Section 73 of PD No. 464. When the property was sold by Sta. Maria to Valencia in 1964 the law applicable was RA No. 537 which provides that *failure to do so* (to make a new declaration) *shall make the assessment in the name of the previous owner valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of the actual owner.* However the law in force at the time of the auction sale on 29 February 1984 was already PD No. 464 which did not contain the aforecited phrase. The fact that the pertinent phrase found in both RA No. 537 and RA No. 409 was not incorporated in PD No. 464 implies that the assessment of the subject property in the name of Sta. Maria would not bind, much less affect, Valencia for there is no longer any statutory waiver of the right to contest assessment by the actual owner due to mere non-declaration.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; THE AVERMENTS OF THE COMPLAINT DETERMINE THE NATURE OF THE ACTION; CASE AT BAR.**— A cursory examination of the petition readily shows that it is an action for reconveyance. The petition states that "petitioners are not after the annulment of the judgment of the Regional Trial Court, Quezon City, Branch 106. The remedy of petitioners under the law is an action for reconveyance the jurisdiction of which is vested in the Regional Trial Court." In *Sevilla v. De los Angeles* reconveyance was allowed where the procurement of a transfer certificate of title was made under circumstances of constructive trust based on fraudulent

Supreme Court E-Library

representations. In the instant case the complaint alleges that respondent Virginia Tugbang procured a transfer certificate of title upon her fraudulent representation in her petition for cancellation of title. This way of acquiring title creates what is called "constructive trust" in favor of the defrauded party and grants to the latter a right to the reconveyance of the property. Thus it has been held that if a person obtains legal title to property by fraud or concealment courts will impress upon the title a so-called "constructive trust" in favor of the defrauded party. The use of the word "trust" in this sense is not technically accurate but as courts are agreed in administering the same remedy in a certain class of frauds as are administered in fraudulent breaches of trusts, and as courts and the profession have concurred in calling such frauds constructive trusts, there can be no misapprehension in continuing the same phraseology, while a change might lead to confusion and misunderstanding.

2. **ID.; ID.; ID.; JURISDICTION OVER THE CASE IS CLEARLY VESTED WITH THE REGIONAL TRIAL COURT.—** As the petition makes out a case for reconveyance and not a mere annulment of an RTC judgment as viewed under par. (2), Sec. 9, BP Blg. 129, jurisdiction over the case is clearly vested in the Regional Trial Court of Quezon City as provided in par. (2), Sec. 19, BP Blg. 129. Moreover, the Regional Trial Court has jurisdiction over the petition as it may be considered only as a continuation of the original proceeding for cancellation of title which in view of its non-litigious character is summary in nature. Furthermore, under Sec. 2 of PD 1529 otherwise known as the *Property Registration Decree*, the jurisdiction of the Regional Trial Court sitting as a land registration court is no longer as circumscribed as it was under the former *Land Registration Act* (Act 496), so that now a Regional Trial Court, like the RTC of Quezon City which issued a new title to respondent Virginia Tugbang in lieu of the old one, has the authority to act not only on applications for original registration but also over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petitions. As to whether such an action should be granted requires further evidence culled from a full-blown trial; hence, Civil Case No. Q-93-15976 previously dismissed by the trial court should be reinstated so that the parties may be able to present their evidence.

3. **ID.; ID.; TITLE OF THE PLEADING NOT CONTROLLING IN DETERMINING THE NATURE OF AN ACTION.—** In

Supreme Court E-Library

Galutira it was held that "in the law of pleading, courts are called upon to pierce the form and go into the substance, not to be misled by a false or wrong name given to a pleading because the title thereof is not controlling and the court should be guided by its averments x x x" Apparently the ruling is contrary to petitioner's very own position. While the complaint of Bernardita C. Tolentino is captioned as one for annulment of auction sale with damages, it is not an action for annulment of judgment which should be filed with the Court of Appeals. In fact, from the allegations in the complaint it can be gathered that a reconveyance was intended by Tolentino, in which case, jurisdiction is vested in the trial court.

4. **TAXATION; REAL PROPERTY TAXATION; P.D. NO. 464; ONE WHO IS NO LONGER THE OWNER OF THE PROPERTY CANNOT BE CONSIDERED THE DELINQUENT TAXPAYER.**— In ascertaining the identity of the delinquent taxpayer, for purposes of notifying him of his tax delinquency and the prospect of a distraint and auction of his delinquent property, petitioner City Treasurer should not have simply relied on the tax declaration. The property being covered by the Torrens system, it would have been more prudent for him, which was not difficult to do, to verify from the Office of the Register of Deeds of Quezon City where the property is situated and as to who the registered owner was at the time the auction sale was to take place, to determine who the *real delinquent taxpayer was* within the purview of the third paragraph of Sec. 73. For one who is no longer the lawful owner of the land cannot be considered the "present registered owner" because, apparently, he has already lost interest in the property, hence is not expected to defend the property from the sale at auction. The purpose of PD No. 464 is to collect taxes from the *delinquent taxpayer* and, logically, one who is no longer the owner of the property cannot be considered the *delinquent taxpayer.*

5. **ID.; ID.; ID.; THE ASSESSMENT IN THE NAME OF THE PREVIOUS OWNER IS NO LONGER DEEMED AN ASSESSMENT OF THE ACTUAL OWNER; CASE AT BAR.**— The fact that the pertinent phrase, *"failure to do so shall make the assessment in the name of the previous owner valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner,"* found in both RA No. 537 and RA No. 409 was not incorporated in PD No. 464 implies that the assessment of the subject property in 1983 in the

Supreme Court E-Library

name of Sta. Maria would not bind, much less adversely affect, Valencia. This, in spite of the non-declaration by Valencia of the property in her name as required by the law, for there is no longer any statutory waiver of the right to contest assessment by the actual owner due to mere non-declaration. We can infer from the omission that the assessment in the name of the previous owner is no longer deemed an assessment in the name of the actual owner.

6. **ID.; ID.; ID.; THE DELINQUENT TAXPAYER REFERRED TO UNDER SECTION 72 OF P.D. NO. 464 IS THE ACTUAL OWNER OF THE PROPERTY AT THE TIME OF THE DELINQUENCY; NOTIFICATION TO THE PERSON, THAT IS, THE REAL OWNER IS AN ESSENTIAL AND INDISPENSABLE REQUIREMENT OF THE LAW, NON-COMPLIANCE WITH WHICH RENDERS THE AUCTION SALE VOID.**— It is therefore clear that the delinquent taxpayer referred to under Sec. 72 of PD No. 464 is the actual owner of the property at the time of the delinquency and mere compliance by the provincial or city treasurer with Sec. 65 of the decree is no longer enough. The notification to the right person, i.e., the real owner, is an essential and indispensable requirement of the law, non-compliance with which renders the auction sale void.

APPEARANCES OF COUNSEL

Romero, Lagman, Valdecantos & Arreza Law Offices for petitioners.

Alfredo M. Duran for Bernardita Tolentino.

Arturo E. Balbastro for private respondents in G.R. No. 120435.

DECISION

BELLOSILLO, *J.*:

These two (2) petitions are heard jointly by the Court for the reason that they involve a common issue of jurisdiction over the nature of the action.

G.R. No. 120435

Petitioners allege that in 1981 Mercedes Jacob, registered owner of the land subject matter hereof and covered by Transfer Certificate of Title No. 39178, left for the United States. Before she did, she

Supreme Court E-Library

asked her son-in-law Luciano Quinto, Jr. to pay the real estate taxes on her property. However, Luciano, Jr. was not allowed to pay by the City Treasurer's Office as he had no written authorization from her. Luciano, Jr. and his wife Lilian Jacob Quinto attempted several times to pay but they were as many times refused.

In 1984 respondent City Treasurer of Quezon City sent a notice to Mercedes Jacob through her daughter Lilian Jacob Quinto that her real estate taxes on the property were delinquent. Lilian was also informed that the land was already sold at public auction on 24 August 1983 to private respondent Virginia Tugbang for ₱6,800.00 to satisfy the tax delinquency of the land.

Mercedes Jacob came to know of the sale on 6 September 1983 when she received from respondent City Treasurer a *Notice of Sale of Real Property* addressed to her husband. Members of Mercedes' family tried to redeem the property from Virginia Tugbang but she evaded them until the *Final Bill of Sale* was issued to her.

On 30 September 1985 Virginia filed a petition for the cancellation of TCT No. 39178 and the issuance of a new certificate of title in her name alleging in par. 4 of her petition that —

> x x x (On) August 27, 1985, the period of redemption on the sold property having already expired and the registered owner-delinquent taxpayer, Mercedes Jacob, and any other interested party, did not, within the said period, take any step to redeem the property and pursue any lawful remedy to impeach the proceedings or to enforce any lien or claim thereon, thereby allowing the sale to become final and absolute,[1]

thereby disregarding and frustrating the efforts of the Jacobs to redeem the property after depositing ₱2,000.00 with the City Treasurer as redemption price. On 3 March 1989 TCT No. 39178 was canceled and TCT No. 81860 was issued in the name of Virginia Tugbang.

On 17 May 1993 petitioners Mercedita Jacob, Donato Jacob, Jr., Ereneo Jacob and Lilian Jacob-Quinto, heirs of the late Mercedes Jacob, filed a complaint with the Regional Trial Court of Quezon City against respondent spouses Ramon R. Tugbang and Virginia S. Tugbang, docketed as Civil Case No. Q-93-15976,

[1] *Rollo,* p. 19.

Supreme Court E-Library

for annulment or cancellation of the auction sale, the final bill of sale, TCT No. 81860, and for redemption of the property plus damages. However, the trial court dismissed the petition purportedly for lack of jurisdiction as the petition was deemed to be —

> x x x in reality a petition to annul and set aside the Decision rendered on March 13, 1994 by the Regional Trial Court, Quezon City, Branch 106, canceling petitioner Mercedes Jacob's TCT No. 39178 x x x — consolidating title to the property covered thereby in herein private respondent Virginia S. Tugbang, and ordering the issuance of a new title in her favor.[2]

On 12 October 1994 petitioners filed with us a petition for review on *certiorari* under Rule 45 of the Rules of Court which we certified on 9 November 1994 to the Court of Appeals. The appellate court however dismissed the petition for lack of merit. Thus this petition for reversal of the decision of the Court of Appeals and for judgment directing the RTC - Br. 82, Quezon City, to proceed with the trial of Civil Case No. Q-93-15976.

The petition must be granted. It is axiomatic that the averments of the complaint determine the nature of the action, hence, the jurisdiction of the courts. This is because the complaint must contain a concise statement of the ultimate facts constituting the plaintiff's cause of action and specify the relief sought.[3]

A cursory examination of the petition readily shows that it is an action for reconveyance. The petition states that "petitioners are not after the annulment of the judgment of the Regional Trial Court, Quezon City, Branch 106. The remedy of petitioners under the law is an action for reconveyance the jurisdiction of which is vested in the Regional Trial Court."[4] In *Sevilla v. De los Angeles*[5] reconveyance was allowed where the procurement of a transfer certificate of title was made under circumstances of constructive

---

[2] *Id.,* p. 71.

[3] *Abad v. Court of First Instance of Pangasinan,* G.R. Nos. 58507-08, 26 February 1992, 206 SCRA 567.

[4] *Rollo,* p. 23.

[5] 97 Phil. 875 (1955).

Supreme Court E-Library

trust based on fraudulent representations. In the instant case the complaint alleges that respondent Virginia Tugbang procured a transfer certificate of title upon her fraudulent representation in her petition for cancellation of title. This way of acquiring title creates what is called "constructive trust" in favor of the defrauded party and grants to the latter a right to the reconveyance of the property. Thus it has been held that if a person obtains legal title to property by fraud or concealment courts will impress upon the title a so-called "constructive trust" in favor of the defrauded party. The use of the word "trust" in this sense is not technically accurate but as courts are agreed in administering the same remedy in a certain class of frauds as are administered in fraudulent breaches of trusts, and as courts and the profession have concurred in calling such frauds constructive trusts, there can be no misapprehension in continuing the same phraseology, while a change might lead to confusion and misunderstanding.[6]

In *Alzua v. Johnson*[7] we declared that under our system of pleading it is the duty of the courts to grant the relief to which the parties are shown to be entitled by the allegations in their pleadings and the facts proved at the trial, and the mere fact that they themselves misconstrued the legal effect of the facts thus alleged and proved will not prevent the court from placing the just construction thereon and adjudicating the issue accordingly.

As the petition makes out a case for reconveyance and not a mere annulment of an RTC judgment as viewed under par. (2), Sec. 9, BP Blg. 129, jurisdiction over the case is clearly vested in the Regional Trial Court of Quezon City as provided in par. (2), Sec. 19, BP Blg. 129 —

> Sec. 19. *Jurisdiction in civil cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction: x x x (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts x x x

---

[6] *Id.*, p. 879.

[7] 21 Phil. 308 (1912).

Supreme Court E-Library

Moreover, the Regional Trial Court has jurisdiction over the petition as it may be considered only as a continuation of the original proceeding for cancellation of title which in view of its non-litigious character is summary in nature. Furthermore, under Sec. 2 of PD 1529 otherwise known as the *Property Registration Decree*, the jurisdiction of the Regional Trial Court sitting as a land registration court is no longer as circumscribed as it was under the former *Land Registration Act* (Act 496), so that now a Regional Trial Court, like the RTC of Quezon City which issued a new title to respondent Virginia Tugbang in lieu of the old one, has the authority to act not only on applications for original registration but also over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petitions.[8]

As to whether such an action should be granted requires further evidence culled from a full-blown trial; hence, Civil Case No. Q-93-15976 previously dismissed by the trial court should be reinstated so that the parties may be able to present their evidence.

G.R. No. 120974

Alberto Sta. Maria owned a parcel of land covered by TCT No. 68818 which he sold in 1964 to Teresa L. Valencia who, as a consequence, had the title canceled and TCT No. 79818 issued in her name. She however failed to have the tax declaration transferred in her name. Thus she paid the real estate taxes from 1964 to 1978 in the name of its previous owner Alberto Sta. Maria.

On 20 December 1973 Valencia entered into a contract of sale of the property on installment with a mortgage in favor of respondent Bernardita C. Tolentino. However, from 1979 to 1983 Valencia failed to pay the real estate taxes due on the land. As a result, notices of tax delinquency and intent to sell the property[9] were sent to Alberto Sta. Maria's address which was simply stated

---

[8] *Quiroz v. Munoz,* G.R. No. 48162, 18 June 1992, 210 SCRA 60, 67, citing *Vda. de Arceo v. Court of Appeals,* G.R. No. 81401, 18 May 1990, 185 SCRA 489; see also *Averia, Jr. v. Caguioa,* G.R. No. 65129, 29 December 1986, 146 SCRA 459, 462.

[9] Exh. "9", Folder of Exhibits, p. 16.

Supreme Court E-Library

as "Olongapo, Zambales." The notices were then returned to petitioner City Treasurer of Quezon City for a "better complete address."[10]

In the auction sale on 29 February 1984 the spouses Romeo and Verna Chua bought the land in question, which was already covered by TCT No. 79818 in the name of Teresa L. Valencia. On 5 March 1984 a certificate of sale was issued to the Chua spouses but it showed on its face that the land was still covered by TCT No. 68818 and not TCT No. 79818. Apparently, the Office of the City Treasurer was unaware that TCT No. 68818 had already been canceled by TCT No. 79818. However, in the Final Bill of Sale issued to the Chua spouses on 15 May 1985 TCT No. 79818 still appeared in the name of Alberto Sta. Maria, the former owner,[11] so that the vendee spouses lost no time in filing a petition with the Regional Trial Court of Quezon City for the cancellation of TCT No. 79818 and the issuance of a new title in their name. On 4 February 1987 the court granted their petition and TCT No. 357727 was issued in the name of the spouses Romeo and Verna Chua.

In the meantime, on 2 February 1987, respondent Bernardita C. Tolentino paid in full the purchase price of the property so that Teresa L. Valencia executed a deed of absolute sale in her favor. On 2 August 1988, in view of the fire that gutted the Office of the Register of Deeds of Quezon City, Tolentino filed a petition for reconstitution of TCT No. 79818.

Sometime in April 1989, as purchasers of the property in the auction sale, the Chuas demanded delivery of possession from Bernardita C. Tolentino and Teresa L. Valencia. As a consequence, Tolentino sued for annulment of the auction sale in the Regional Trial Court of Quezon City. Finding the action to be well taken, the trial court granted the petition. The Court of Appeals affirmed the court *a quo*. Hence this petition for review on *certiorari* by the City Treasurer of Quezon City under Rule 45 of the Rules of Court.

---

[10] Exh. "G", *id.*, p. 17.

[11] Exh. "7", *id.*, p. 12.

Supreme Court E-Library

Petitioner City Treasurer cites *Galutira v. Ramones,*[12] a decision of the Court of Appeals, in support of his position that the trial court has no jurisdiction over the case as it is one for annulment and cancellation of TCT No. 357727 which is vested in the Court of Appeals pursuant to par. (2), Sec. 9, BP Blg. 129.[13] In *Galutira* it was held that "in the law of pleading, courts are called upon to pierce the form and go into the substance, not to be misled by a false or wrong name given to a pleading because the title thereof is not controlling and the court should be guided by its averments x x x" Apparently the ruling is contrary to petitioner's very own position. While the complaint of Bernardita C. Tolentino is captioned as one for annulment of auction sale with damages, it is not an action for annulment of judgment which should be filed with the Court of Appeals. In fact, from the allegations in the complaint it can be gathered that a reconveyance was intended by Tolentino, in which case, jurisdiction is vested in the trial court.

Under Sec. 55 of the Land Registration Act, as amended by Sec. 53 of PD No. 1529,[14] an original owner of registered land may seek the annulment of the transfer thereof on the ground of fraud and the proper remedy is reconveyance. However, such remedy is without prejudice to the rights of an innocent purchaser for value holding a certificate of title.

As regards the propriety of the nullification of the auction sale in the instant case, which still remains unresolved, petitioner submits that he had done everything incumbent upon him to do in proceeding with the auction sale. Besides, not only was original vendee Valencia remiss in her obligation to secure a new tax

---

[12] CA 510, 51 O.G. No. 11, p. 5740.

[13] Sec. 9. *Jurisdiction.* — The Court of Appeals shall exercise:

x x x (2) Exclusive original jurisdiction over actions for annulment of judgment of Regional Trial Courts x x x

[14] Sec. 53. *Presentation of owner's duplicate upon entry of new certificate.* —

x x x In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title x x x.

Supreme Court E-Library

declaration in her name but she likewise failed to pay the real property taxes for 1979 to 1983. Therefore, petitioner City Treasurer of Quezon City reiterates, the validity of the auction sale should instead be sustained conformably with *Estella v. Court of Appeals.*[15]

Section 73 of PD No. 464 provides —

Sec. 73. *Advertisement of sale of real property at public auction.* — After the expiration of the year for which the tax is due, the provincial or city treasurer shall advertise the sale at public auction of the entire delinquent real property, except real property mentioned in subsection (a) of Section forty hereof, to satisfy all the taxes and penalties due and the costs of sale. Such advertisement shall be made by posting a notice for three consecutive weeks at the main entrance of the provincial building and of all municipal buildings in the province, or at the main entrance of the city or municipal hall in the case of cities, and in a public and conspicuous place in (the) barrio or district wherein the property is situated, in English, Spanish and the local dialect commonly used, and by announcement for at least three market days at the market by the crier, and, in the discretion of the provincial or city treasurer, by publication once a week for three consecutive weeks in a newspaper of general circulation published in the province or city.

The notice, publication, and announcement by crier shall state the amount of the taxes, penalties and costs of sale; the date, hour, and place of sale, the *name of the taxpayer* against whom the tax was assessed; and the kind or nature of property and, if land, its approximate area, lot number, and location stating the street and block number, district or barrio, municipality and the province or city where the property to be sold is situated *(italics supplied).*

Copy of the notice shall forthwith be sent either by registered mail or by messenger, or through the barrio captain, *to the delinquent taxpayer,* at his address as shown in the tax rolls or property tax record cards of the municipality or city where the property is located, or at his residence, if known to said treasurer or barrio captain; Provided, however, that a return of the proof of service under oath shall be filed by the person making the service with the provincial or city treasurer concerned *(italics supplied).*

There is no dispute that the requirements of law as regards posting of the notice, publication and announcement by crier have

[15] G.R. No. 76884, 28 May 1990, 185 SCRA 732.

Supreme Court E-Library

been complied with.[16] The controversy lies in the failure of petitioner City Treasurer to notify effectively the delinquent taxpayer who at the time of the auction sale was Teresa L. Valencia. Apparently, petitioner proceeded on the wrong premise that the property was still owned by the former registered owner, Alberto Sta. Maria, who sold the property to Valencia in 1964. In fact, at the time of the auction sale, the property was already covered by a conditional sale on installment in favor of respondent Bernardita C. Tolentino. Plainly, at the time of the auction sale, Alberto Sta. Maria who appeared to have been notified of the auction sale was *no longer the registered owner, much less the delinquent taxpayer.*

In ascertaining the identity of the delinquent taxpayer, for purposes of notifying him of his tax delinquency and the prospect of a distraint and auction of his delinquent property, petitioner City Treasurer should not have simply relied on the tax declaration. The property being covered by the Torrens system, it would have been more prudent for him, which was not difficult to do, to verify from the Office of the Register of Deeds of Quezon City where the property is situated and as to who the registered owner was at the time the auction sale was to take place, to determine who the *real delinquent taxpayer was* within the purview of the third paragraph of Sec. 73. For one who is no longer the lawful owner of the land cannot be considered the "present registered owner" because, apparently, he has already lost interest in the property, hence is not expected to defend the property from the sale at auction. The purpose of PD No. 464 is to collect taxes from the *delinquent taxpayer* and, logically, one who is no longer the owner of the property cannot be considered the *delinquent taxpayer.*

While we understand the earnestness and initiative of local governments to collect taxes, the same must be collected from the rightful debtors and not from those who may only appear to be the registered owners in the official files. Certainly, properties change hands as fast as their owners can, and to deprive the present owners of their properties by notifying only the previous owners who no longer have any interest in them will amount not only to inequity and injustice but even to a violation of their constitutional

[16] See Note 9.

Supreme Court E-Library

rights to property and due process. This interpretation as well as its ratiocination was explained as early as 1946 in *Cabrera v. The Provincial Treasurer of Tayabas*[17] where the parties therein seemed to be in the same predicament as the parties herein.

In *Cabrera* the notice of auction sale was sent to the declared owner but was returned "unclaimed." Nevertheless, the auction sale proceeded and the property was sold to the highest bidder. It turned out that the property had been previously conveyed by the declared owner to another who, upon learning of the sale, filed a complaint attacking the validity of the auction sale for lack of notice to the registered owner, and that although the land remained in the assessment books in the name of her transferor, she had become its registered owner several years prior to the auction sale. We resolved the controversy in this manner —

> x x x The appellee was admittedly not notified of the auction sale, and this also vitiates the proceeding. *She is the registered owner of the land and, since 1934, has become liable for the taxes thereon. For all purposes, she is the delinquent taxpayer 'against whom the taxes were assessed' referred to in Section 34 of the Commonwealth Act No. 470.* It cannot be Nemesio Cabrera (declared owner) for the latter's obligation to pay taxes ended where the appellee's liability began *(italics supplied).*
>
> x x x The sale in favor of the appellant (purchaser at auction sale) cannot bind the appellee, since the land purportedly conveyed was owned by Nemesio Cabrera, not by the appellee; and at the time of sale, Nemesio Cabrera had no interest whatsoever in the land in question that could have passed to the appellant.

The appellee may be criticized for her failure to have the land transferred to her name in the assessment record. The circumstance, nevertheless, cannot supplant the absence of notice. Of course, it is the duty of any person acquiring at the time real property to prepare and submit a tax declaration within sixty days (Commonwealth Act No. 470, Section 12), but it is no less true that when the owner refuses or fail to make the required declaration, the provincial assessor should himself declare the property in the name of the defaulting owner (Commonwealth Act No. 470, Sec. 14). In this case, there is absolutely no showing that the appellee had deliberately failed to make the declaration to defraud the tax officials; and it may be remarked that there can be no reason why

---

[17] 75 Phil. 780 (1946).

Supreme Court E-Library

her Torrens title, which binds the whole world, cannot at least charge the Government which had issued it, with notice thereof x x x

Forty years later, in *Serfino v. Court of Appeals,*[18] we reiterated the *Cabrera* doctrine and nullified the auction sale because —

> x x x the prescribed procedure in auction sales of property for tax delinquency being in derogation of property rights should be followed punctiliously. Strict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible suspicion of collusion between the buyer and the public officials called upon to enforce such laws. Notice of sale to the delinquent landowners and to the public in general is an essential and indispensable requirement of law, the non-fulfillment of which vitiates the sale x x x A purchaser of real estate at the tax sale obtains only such title as that held by the taxpayer, the principle of *caveat emptor* applies. Where land is sold for delinquency taxes under the provisions of the Provincial Assessment Law, rights of registered but undeclared owners of the land are not affected by the proceedings and the sale conveys only such interest as the person who has declared the property for taxation has therein.

The principle in *Cabrera,* reiterated in *Serfino,* should be, as it still is, considered valid doctrine today, despite *Estella* which petitioner invokes as the latest rule on the matter. Quite significantly, *Estella* did not make any reference to the *Cabrera* and *Serfino* cases, much less did it pass upon, reverse or modify them; instead, the Court simply declared —

> Under the particular circumstances of the case, we hold that the City Treasurer had done everything that was legally incumbent upon him. Not only did he send the pertinent notices to the declared owner, he also caused the mandatory publication of the notice of public auction in two (2) newspapers of general circulation pursuant to Section 65 of PD No. 464. *The notices were understandably mailed to Concepcion because as far as the City Treasurer was concerned, she was still the 'declared owner' since the assessment of the property in question was still in her name. It should be recalled that while petitioners had promptly secured a new transfer certificate of title in their name after the 1970 acquisition, they neglected to effect the necessary change in the tax declaration as then required by (Sec. 12 of Commonwealth Act No. 470 Assessment Law) and later by P.D. No. 464* x x x (italics supplied).

[18] No. L-40858, 15 September 1987, 154 SCRA 19.

Supreme Court E-Library

All told, if it were really true that petitioners were never given the opportunity to protect their rights, *they had only themselves to blame for the catastrophe that befell them.* Not having been apprised by petitioners of a change in ownership of the subject property, the government was never placed in a position to give them that opportunity (italics supplied).

In *Estella* we relied on our ruling in *Paguio v. Ruiz*[19] where we emphasized the requirement of declaration by the owner under Sec. 2484 of the Revised Administrative Code[20] —

x x x the duty of each person acquiring real estate in the city to make a new declaration thereof with the advertence that *failure to do so shall make the assessment in the name of the previous owner valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner* (italics supplied).

When the property was sold by Sta. Maria to Valencia in 1964 the law applicable was RA No. 537[21] which provided for the same requirement under its Sec. 48.[22] However, the law in force at the time of the auction sale on 29 February 1984 was already PD No. 464[23] which did not contain the aforecited phrase. The new law, Sec. 11 of PD No. 464, merely states —

Any person who shall transfer real property to another shall notify the assessor of the province or city wherein the property is situated within

---

[19] 93 Phil. 306 (1953).

[20] RA No. 409, the Revised Charter of the City of Manila, expressly repealed Secs. 2427 to 2539 of the Administrative Code.

[21] Charter of Quezon City, enacted 16 June 1950.

[22] Sec. 48. *Declaration by real estate owner.* - It shall be the duty of each person who at any time acquires real estate in the city x x x to prepare and present to the City Assessor, within a period of sixty (60) days next succeeding the acquisition x x x a sworn declaration setting forth the value of the real estate acquired x x x and containing a description of such property sufficient to enable the City Assessor readily to identify the same. Any person who fails to make and present such declaration of real estate newly acquired by him within the said period of sixty (60) days shall *be deemed to have waived his right to notice of the assessment of such property, and the assessment of the same in the name of the former owner shall, in all such cases, be valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner.*

[23] *Real Property Code* enacted 20 May 1974.

Supreme Court E-Library

sixty (60) days from the date of such transfer. The notification shall include the particulars of the transfer, the description of the property alienated and the name and address of the transferee.

The fact that the pertinent phrase, "*failure to do so shall make the assessment in the name of the previous owner valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner,*" found in both RA No. 537 and RA No. 409 was not incorporated in PD No. 464 implies that the assessment of the subject property in 1983 in the name of Sta. Maria would not bind, much less adversely affect, Valencia. This, in spite of the non-declaration by Valencia of the property in her name as required by the law, for there is no longer any statutory waiver of the right to contest assessment by the actual owner due to mere non-declaration. We can infer from the omission that the assessment in the name of the previous owner is no longer deemed an assessment in the name of the actual owner.

It is therefore clear that the delinquent taxpayer referred to under Sec. 72 of PD No. 464 is the actual owner of the property at the time of the delinquency and mere compliance by the provincial or city treasurer with Sec. 65 of the decree is no longer enough.[24] The notification to the right person, i.e., the real owner, is an essential and indispensable requirement of the law, non-compliance with which renders the auction sale void.

The registered owner need not be entirely blamed for her failure to transfer the tax declaration in her name. Section 7 of PD No. 464 directs the assessor, in case the owner fails to make a return, to list the real estate for taxation and charge the tax against the true owner if known, and if unknown, then as against the unknown owner. In this way, a change of ownership may be ascertained. Along the same line did we rule in *Cabrera.*

[24] Sec. 65. *Notice of delinquency in the payment of the real property tax.* — Upon the real property tax or any installment thereof becoming delinquent, the provincial or city treasurer shall immediately cause notice of the fact to be posted at the main entrance of the provincial building and of all municipal buildings or municipal or city hall and in a public and conspicuous place in each barrio of the municipality of the province or city as the case may be. The notice of delinquency shall also be published once a week for three consecutive weeks, in a newspaper of general circulation in the province or city, if any there be, and announced by a crier at the market place for at least three market days.

Supreme Court E-Library

WHEREFORE, the petition in *G.R. No. 120435* is *GRANTED.* The decision and resolution of respondent Court of Appeals which affirmed the dismissal of the complaint of petitioners by the RTC-Br. 82, Quezon City, are *SET ASIDE* and Civil Case No. Q-93-15976 is *REINSTATED.* The trial court is directed to hear and decide this case with deliberate dispatch.

The petition in *G.R. No. 120974,* on the other hand, is *DENIED.* The decision and resolution of respondent Court of Appeals affirming with modification that of the trial court are *AFFIRMED.* The public auction sale conducted on 29 February 1984 is declared *VOID* for lack of notice to the registered owner Teresa L. Valencia. Transfer Certificate Title No. 357727 and Tax Declaration No. B-091-01469 in the name of the spouses Romeo and Verna Chua are *ANNULLED.* The Register of Deeds of Quezon City is ordered to cancel TCT No. 357727 and issue in lieu thereof a new one in the name of respondent Bernardita C. Tolentino. Petitioner City Treasurer of Quezon City is ordered to cancel likewise Tax Declaration No. B-091-01469 and issue in lieu thereof a new tax declaration in the name of respondent Bernardita C. Tolentino. The award of attorney's fees is deleted.

SO ORDERED.

Davide, Jr. (Chairman), Vitug, and *Kapunan, JJ.,* concur.