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FIRST DIVISION

[G.R. No. 161748. July 3, 2009]

Spouses FRANCISCO and BETTY WONG and Spouses JOAQUIN and LOLITA WONG, *petitioners, vs.* **CITY OF ILOILO, ROMEO MANIKAN as City Treasurer of Iloilo, MELANIE UY and the ESTATE OF FELIPE UY,** *respondents.*

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE ON REAL PROPERTY TAXATION; WHEN REGIONAL TRIAL COURT (RTC) SHALL ENTERTAIN COMPLAINT ASSAILING THE VALIDITY OF TAX SALE OF REAL PROPERTY; REQUIRED DEPOSIT, MANDATORY.— Section 83 of PD 464 states that the RTC shall not entertain any complaint assailing the validity of a tax sale of real property unless the complainant deposits with the court the amount for which the said property was sold plus interest equivalent to 20% per annum from the date of sale until the institution of the complaint. This provision was adopted in Section 267 of the Local Government Code, albeit the increase in the prescribed rate of interest to 2% per month. In this regard, *National Housing Authority v. Iloilo City* holds that the deposit required under Section 267 of the Local Government Code is a **jurisdictional requirement**, the nonpayment of which warrants the dismissal of the action. Because petitioners in this case did not make such deposit, the RTC never acquired jurisdiction over the complaints.

APPEARANCES OF COUNSEL

Torres Ravina & Sy Law Offices for petitioners.

Mae M. Gellecanao-Laserna for Melanie Uy and Estate of the Late Felipe Uy.

City Legal Office for City of Iloilo and City Treasurer.

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R E S O L U T I O N

CORONA, *J.*:

At the center of this controversy is a 184-square meter property covered by TCT No. T-7373[1] on Valeria Street, Iloilo City owned by Charles Newton and Jane Linnie Hodges.

On November 3, 1966, the respective estates of the Hodges spouses sold the property to Vicente Chan. For some reason, however, Chan was not able to register the property in his name.

Subsequently, Chan passed away and his estate sold the same property to petitioners Francisco and Joaquin Wong on September 29, 1967. Because the estate of Chan was unable to produce the estate tax clearance and the owner's duplicate of title, petitioners were only allowed to annotate a notice of adverse claim on TCT No. T-7373 stating:[2]

> Entry No. 40286—Notice of Adverse Claim filed by [petitioners] to protect [their] rights and interest in the parcel of land described herein in view that the same [was] acquired by Vicente Chan from C.N. Hodges and the same [was] also acquired by Joaquin Wong from Adelfa Remaylon *vda. de* Chan by purchase for the sum of ₱38,500… .[3]

On January 3, 1991, respondent Iloilo City Treasurer Romeo Manikan issued a general notice of delinquency in the payment of real estate taxes.[4] It was published in the Visayan Tribune

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[1] Annex "C" of the petition. *Rollo,* pp. 37-39.

[2] *Id.,* p. 38.

[3] *Ibid.*

[4] Annex "E" of the petition. *Id.*, p. 46. The notice stated:

> **NOTICE OF DELINQUENCY IN THE PAYMENT OF REAL PROPERTY TAX IN THE CITY OF ILOILO**
>
> Notice is hereby served to all owners of real properties in the City of Iloilo whose real property tax for the year 1990 and/or prior years or any installment thereof, has remained unpaid as of this date that

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from January 8 to 14, 1991, January 15 to 21, 1991 and January 22 to 28, 1991.[5]

Because no one contested the said notice or settled the tax delinquency of the subject property, the City Treasurer sent the notice of sale to the last known judicial administrator of the estates of the Hodges. However, the said notice was returned with the annotation "cannot be located."[6]

On September 26, 1991, the property was sold at public auction wherein respondent Melanie Uy was the highest bidder. On November 27, 1992, a final bill of sale was issued to her. Consequently, TCT No. T-7373 was cancelled and TCT No. T-97308 was issued to "Melanie Laserna Uy married to Felipe G. Uy."

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said real properties has become delinquent and that the undersigned City Treasurer who, under the law, is charged to enforce collection of said delinquent taxes will, for that purpose, resort to any of the following remedies to satisfy taxes, penalties, and costs:

a) Seizure of personal property of the taxpayer and the sale thereof at public auction; and/or

b) File civil suit with the proper court; and/or

c) Sell the entire delinquent property at public auction.

At any time however, before any of the above-mentioned remedies is instituted, payment maybe made with penalty at the rate of two per centum per month on the amount of the delinquent tax for each month of delinquency or fraction thereof but not exceeding twenty-four per centum per annum until the delinquent tax shall be fully paid; and further, that unless the delinquent tax and penalties be paid or the tax shall have been judicially set aside, the entire delinquent real property will be sold at public auction to satisfy taxes, penalties and costs, and that thereafter the full title of the property will remain with the purchaser, subject only to the right of the delinquent taxpayer or any other person in his behalf or any person holding lien or claims over the property to redeem the said property within one year from the date of sale.

Iloilo City, January 3, 1991.

(Sgd.) **ROMEO V. MANIKAN**
City Treasurer

[5] Annexes "F", "F-1" and "F-2" of the petition. *Id.*, pp. 47-49.

[6] Annex "G" of the petition. *Id.*, p. 50.

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On November 8, 1993, petitioners Francisco and Betty Wong filed a complaint for the annulment of the September 26, 1991 auction sale and TCT No. T-97308 against respondents the City Government of Iloilo, City Treasurer Romeo Manikan and the spouses Felipe and Melanie Uy in the Regional Trial Court (RTC) of Iloilo City, Branch 27.[7] They asserted that the tax sale was void since the City Treasurer failed to inform them of the tax sale as required by Section 73 of PD[8] 464[9] which provided:

Section 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 barrio or district wherein the property is situated, in English, Spanish and the local dialect commonly used, and by announcement at least three market days at the market by 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 areas, 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. **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**

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[7] Docketed as Civil Case No. 21467.

[8] Presidential Decree.

[9] Real Property Tax Code. This has been superseded by the provisions of the 1991 Local Government Code on real property taxation (or Title II thereof).

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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. (emphasis supplied)

On September 7, 1994, petitioners Joaquin and Lolita Wong filed a similar complaint with the RTC of Iloilo City, Branch 31.[10]

In a decision dated March 6, 1998, the RTC upheld the validity of the tax sale and dismissed the complaints. It reasoned that because petitioners were not the registered owners of the property, they were not real parties-in-interest who could assail the validity of the said sale.

Aggrieved, petitioners moved for reconsideration. In a resolution dated July 24, 1998 the RTC granted the motion and set aside the March 6, 1998 decision.[11] It noted that no notice of sale was sent to petitioners who were the legitimate owners of the property.

Respondents City Government of Iloilo and City Treasurer Manikan moved for reconsideration but it was denied in a resolution dated September 22, 1998.[12]

Thereafter, respondents appealed the July 24, 1998 and September 22, 1998 resolutions of the RTC to the Court of Appeals (CA).[13] They argued that the RTC erred in taking cognizance of the complaints since petitioners failed to observe the requirements of Section 83 of PD 464 which provided:

Section 83. Suits assailing validity of tax sale. — **No court shall entertain any suit assailing the validity of a tax sale of real estate under this Chapter until the taxpayer shall have paid into court the**

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[10] Docketed as Civil Case No. 21969. This complaint was joined with Civil Case No. 21467 inasmuch as it involved the same cause of action.

[11] Penned by Judge Teodulo A. Colada. *Rollo*, pp. 51-61.

[12] *Id.*, pp. 62-66.

[13] Docketed as CA-G.R. CV No. 64903.

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amount for which the real property was sold, together with interests of twenty per centum per annum upon that sum from the date of sale to the time of instituting suit. The money so paid into court shall belong to the purchaser at the tax sale if the deed is declared invalid, but shall be returned to the depositor if the action fails.

Neither shall any court declare a sale invalid by reason of irregularities or informalities in the proceedings committed by the officer charged with the duty of making sale, or by reason of failure by him to perform his duties within the time herein specified for their performance, unless it shall have been proven that such irregularities, informalities or failure have impaired the substantial rights of the taxpayer. (emphasis supplied)[14]

In a decision dated October 9, 2002,[15] the CA reversed and set aside the assailed resolutions of the RTC. It reasoned that Section 83 of PD 464 was inapplicable since the complaints did not protest the assessment made by the local government unit. Thus, such failure did not deprive the RTC of jurisdiction. However, the CA upheld the validity of the tax sale. Under the law, only registered owners are entitled to a notice of tax sale. Inasmuch as the property remained registered in the names of

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[14] See LOCAL GOV'T. CODE, Sec. 267 which provides:

Section 267. Action Assailing Validity of Tax Sale. — **No court shall entertain any action assailing the validity or any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action.** The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

Neither shall any court declare a sale at public auction invalid by reason or irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired. (emphasis supplied)

[15] Penned by Associate Justice Elvi John S. Asuncion (dismissed from the service) and concurred in by Associate Justices Portia Aliño-Hormachuelos and Juan Q. Enriquez, Jr. of the Tenth Division of the Court of Appeals. *Rollo,* pp. 28-35.

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the Hodges spouses in TCT No. T-7373, said spouses were the only ones entitled to such notice.

Petitioners moved for reconsideration but it was denied.[16] Hence, this recourse,[17] petitioners insisting that the CA erred in upholding the validity of the tax sale.

We deny the petition.

Section 83 of PD 464 states that the RTC shall not entertain any complaint assailing the validity of a tax sale of real property unless the complainant deposits with the court the amount for which the said property was sold plus interest equivalent to 20% per annum from the date of sale until the institution of the complaint. This provision was adopted in Section 267 of the Local Government Code, albeit the increase in the prescribed rate of interest to 2% per month.[18]

In this regard, *National Housing Authority v. Iloilo City*[19] holds that the deposit required under Section 267 of the Local Government Code is a **jurisdictional requirement**, the nonpayment of which warrants the dismissal of the action. Because petitioners in this case did not make such deposit, the RTC never acquired jurisdiction over the complaints.

Consequently, inasmuch as the tax sale was never validly challenged, it remains legally binding.

WHEREFORE, the petition is hereby *DENIED*.

Costs against petitioners.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, Leonardo-de Castro, and *Bersamin, JJ.*, concur.

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[16] Resolution dated January 12, 2004. *Id.*, p. 36.

[17] Under Rule 45 of the Rules of Court.

[18] *Supra* note 16.

[19] G.R. No. 172267, 20 August 2008.