

## SECOND DIVISION

[ G.R. No. 171033, August 03, 2010 ]

**CITY MAYOR, CITY TREASURER, CITY ASSESSOR, ALL OF QUEZON CITY, AND ALVIN EMERSON S. YU, PETITIONERS, VS. RIZAL COMMERCIAL BANKING CORPORATION, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This is a petition for review on *certiorari* assailing the Decision<sup>[1]</sup> dated December 6, 2005, of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 101, Quezon City, in SP. Civil Action Q-04-53522 for Mandamus with Prayer for Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction.

The procedural and factual antecedents are as follows:

The facts are undisputed. The spouses Roberto and Monette Naval obtained a loan from respondent Rizal Commercial Banking Corporation, secured by a real estate mortgage of properties covered by Transfer Certificate of Title (TCT) Nos. N-167986, N-167987, and N-167988. In 1998, the real estate mortgage was later foreclosed and the properties were sold at public auction with respondent as the highest bidder. The corresponding Certificates of Sale were issued in favor of respondent on August 4, 1998. However, the certificates of sale were allegedly registered only on February 10, 2004.

Meanwhile, on May 30, 2003, an auction sale of tax delinquent properties was conducted by the City Treasurer of Quezon City. Included in the properties that were auctioned were two (2) townhouse units covered by TCT Nos. N-167986 and N-167987 and the parcel of land covered by TCT No. N-167988. For these delinquent properties, Alvin Emerson S. Yu was adjudged as the highest bidder. Upon payment of the tax delinquencies, he was issued the corresponding Certificate of Sale of Delinquent Property.

On February 10, 2004, the Certificate of Sale of Delinquent Property was registered with the Office of the Register of Deeds of Quezon City.

On June 10, 2004, respondent tendered payment for all of the assessed tax delinquencies, interest, and other costs of the subject properties with the Office of the City Treasurer, Quezon City. However, the Office of the City Treasurer refused to accept said tender of payment.

Undeterred, on June 15, 2004, respondent filed before the Office of the City Treasurer a Petition<sup>[2]</sup> for the acceptance of its tender of payment and for the subsequent issuance of the certificate of redemption in its favor. Nevertheless, respondent's subsequent tender of payment was also denied.

Consequently, respondent filed a Petition for Mandamus with Prayer for Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction<sup>[3]</sup> before the RTC. Petitioners contended, among other things, that it had until February 10, 2005, or one (1) year from the date of registration of the certificate of sale on February 10, 2004, within which to redeem the subject properties, pursuant to Section 78 of Presidential Decree (P.D.) No. 464 or the Real Property Tax Code.

After the parties filed their respective pleadings, the RTC initially denied the petition in the Order<sup>[4]</sup> dated December 6, 2004. In denying the petition, the RTC opined that respondent's reliance on Section 78 of P.D. No. 464 as basis of the reckoning period in counting the one (1) year period within which to redeem the subject properties was misplaced, since P.D. No. 464 has been expressly repealed by Republic Act (R.A.) No. 7160, or the Local Government Code.

Aggrieved, respondent filed a Motion for Reconsideration<sup>[5]</sup> questioning the Order, arguing that:

A.

The Honorable Court committed grave error when it summarily denied the petition for Mandamus filed by herein petitioner during the hearing on the Motion for Issuance of Temporary Restraining Order and/or Issuance of a Writ of Preliminary Injunction without conducting a hearing or trial on petition for mandamus. The order of the court effectively denied petitioner its right to due process.

B.

The principal action subject of the petition for mandamus is the annulment of the auction sale. Alternatively, petitioner sought the right to consign the redemption price, inclusive of interests on the basis that it was exercising the right of redemption within the period provided by law. The Honorable Court ruled only on the repeal of Presidential Decree No. 464 and not the issues/grounds raised in the temporary restraining order/writ of preliminary injunction nor on the issues raised in the petition for mandamus, contrary to law.

C.

The Honorable Court committed grave error when it sustained the validity of the actions of the City Treasurer with respect to the auction sale of the properties subject of the petition and its unlawful refusal to accept the redemption price of the properties subject of the auction sale contrary to the provisions of Quezon City Ordinance No. 91-93, in relation to Presidential Decree No. 464 and the Local Government Code and DOF Assessment Regulations No. 7-85.

D.

The Honorable Court committed grave error when it denied petitioner its right to consign the payment of the redemption price of the properties sold in auction sale without a determination of the factual issues of the case, contrary to due process.

E.

The legal and factual question of the validity of the notice of the auction sale cannot be summarily dismissed without hearing and ruling on the allegation of lack of notice and fraud raised by petitioner in its petition for mandamus.<sup>[6]</sup>

On December 6, 2005, the RTC rendered a Decision<sup>[7]</sup> granting the petition, the decretal portion of which reads:

WHEREFORE, premises considered, the above-captioned petition for mandamus is hereby granted.

Accordingly, the public respondents are ordered to accept the petitioner's tender of redemption payment, to issue the corresponding certificate of redemption in the name of the petitioner and to cancel the certificate of tax sale issued to the private respondent.

SO ORDERED.<sup>[8]</sup>

In granting the petition, the RTC ratiocinated that the counting of the one (1) year redemption period of tax delinquent properties sold at public auction should start from the date of registration of the certificate of sale or the final deed of sale in favor of the purchaser, so that the delinquent registered owner or third parties interested in the redemption may be notified that the delinquent property had been sold, and that they have one (1) year from said constructive notice of the sale within which to redeem the property. The RTC was also of the opinion that Section 261, R.A. No. 7160 did not amend Section 78 of P.D. No. 464.

Hence, the petition raising the following arguments:

I

THE REGIONAL TRIAL COURT, BRANCH 101, QUEZON CITY, DECIDED A QUESTION [OF] LAW CONTRARY TO LAW AND JURISPRUDENCE WHEN IT DECIDED THAT SECTION 78 OF P.D. 464 WAS NOT REPEALED BY REPUBLIC ACT NO. 7160 KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991.

II

THE REGIONAL TRIAL COURT, BRANCH 101, QUEZON CITY, DECIDED A QUESTION [OF] LAW CONTRARY TO LAW AND JURISPRUDENCE WHEN IT

RAISED THE FOLLOWING ISSUES WHICH DO NOT CONFORM TO THE PETITION AND ANSWER FILED BY THE PARTIES:

A. WHETHER OR NOT THE RESPONDENT IS ENTITLED TO THE PROTECTION OF ALL THE PROVISIONS OF QUEZON CITY TAX ORDINANCE NUMBER SP-91-93, OTHERWISE KNOWN AS QUEZON CITY REVENUE CODE OF 1993, INCLUDING SECTION 14 THEREOF, PROMULGATED PURSUANT TO R.A. 7160;

B. WHETHER THE PERIOD OF REDEMPTION IN A REALTY TAX SALE IN QUEZON CITY [H]AS TO BE RECKONED FROM THE DATE OF ANNOTATION OF THE CERTIFICATE OF SALE PURSUANT TO PARAGRAPH 7, SECTION 14 OF QUEZON CITY TAX ORDINANCE NO. SP-91-93 OR FROM THE DATE OF SALE PURSUANT TO SECTION 261 OF R.A. 7160.[9]

Petitioners argue that the RTC erred when it ruled that P.D. No. 464 was not repealed by R.A. No. 7160 and when it concluded that the phrase "from the date of sale" as appearing in Section 261 of R.A. No. 7160 means that the counting of the one (1) year redemption period of tax delinquent properties sold at public action shall commence from the date of registration of the certificate of sale.

Petitioners insist that, since Section 14 (a), Paragraph 7 of the Quezon City Revenue Code of 1993 was not initially alleged in respondent's petition and was not used as basis for its filing, the RTC erred when it took cognizance of it when it rendered the assailed decision.

Conversely, respondent argues, among other things, that the RTC did not rule that P.D. No. 464 was not repealed by R.A. No. 7160, it merely made reference to Section 78 of P.D. No. 464. Respondent maintains that it has not altered its cause of action when it cited Section 14 (a), paragraph 7 of the Quezon City Revenue Code of 1993 for the first time in its memorandum and that its failure to invoke the said provision in the petition for mandamus does not preclude respondent from invoking it in the later part of the proceedings. Ultimately, respondent contends that the RTC correctly ruled that it had timely exercised its right to redeem the subject properties.

Section 78 of P.D. No. 464 provides for a one-year redemption period for properties foreclosed due to tax delinquency, thus:

*Sec. 78. Redemption of real property after sale. - Within the term of one year from the date of the registration of the sale of the property, the delinquent taxpayer or his representative, or in his absence, any person holding a lien or claim over the property, shall have the right to redeem the same by paying the provincial or city treasurer or his deputy the total amount of taxes and penalties due up to the date of redemption, the costs of sale and the interest at the rate of twenty *per centum* on the purchase price, and such payment shall invalidate the sale certificate issued to the purchaser and shall entitle the person making the same to*