

SECOND DIVISION

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

NATIONAL HOUSING AUTHORITY, PETITIONER, VS. ILOILO CITY, AS REPRESENTED BY ITS MAYOR, HON. JERRY TREÑAS, ILOILO CITY TREASURER CATHERINE TINGSON, AND ROSALINA FRANCISCO, RESPONDENTS.

D E C I S I O N

TINGA, J,:

The National Housing Authority (NHA) assails the Decision^[1] of the Court of Appeals dated 22 March 2006 which declared it not exempt from posting a deposit as a jurisdictional requisite before the court can take cognizance of cases filed by it questioning the validity of a sale of real property at public auction.

The following undisputed facts are narrated by the appellate court:

On July 19, 2002, the National Housing Authority (NHA, for brevity) filed a Complaint for *"Annulment of the Auction Sale conducted on December 7 & 8, 1998 by the Iloilo City Treasurer and the Subsequent Certificate of Re-Purchase Executed in Favor of a Third Party"* against Iloilo City, as represented by its Mayor Jerry Treñas, Iloilo City Treasurer Catherine Tingson and Rosalina Francisco. The case was subsequently docketed as Civil Case No. 02-27241.

For nonpayment of realty taxes, defendants auctioned off plaintiff NHA's Lot No. 1150-A [of the subdivision plan Psd-29811, being a portion of Lot No. 1150 of the Cadastral Survey of Iloilo, situated at Barangay Monica, City of Iloilo] covered by TCT No. T-76179. Such auction sale was allegedly done without notice to plaintiff NHA as the registered owner thereof, in addition to the fact that the latter is a tax-exempt agency of the government. There being no private individual who offered to bid for the property, the defendant City of Iloilo bought the same per Certificate of Sale under its name. After the one-year redemption period expired, such defendant executed a Final Bill of Sale in its favor. Subsequently, defendant Rosalina Francisco purchased the land. As a result, plaintiff's TCT was cancelled, and a new TCT No. T-107295 was issued in the name of defendant Francisco.

Defendants filed separate Motions to Dismiss based on the same grounds, particularly: lack of jurisdiction and forum shopping. According to them, the lower court did not acquire jurisdiction for failure of plaintiff to comply with the deposit mandated under Section 267, R.A. 7160, to wit:

Sec. 267. *Acting Assailing Validity of Tax Sale.--No court shall entertain any action assailing the validity of 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 (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 of 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.

Also, defendants asserted that the Complaint violated the non-forum shopping requirement, there being a similar case between the same parties, involving the same subject matter, cause of action and issues, docketed as Civil Case No. 22090 before Branch 34 of Iloilo RTC. In fact, said case has been dismissed on the ground of non-compliance with the deposit requirement under Sec. 267, R.A. 7160, per Order dated July 5, 2002, thus:

WHEREFORE, Civil Case No. 22090 is hereby dismissed.

Acting favorably upon defendants' Motion to Dismiss, the court *a quo* dismissed plaintiff's Complaint per the herein assailed Order dated February 26, 2004, to wit:

WHEREFORE, for failure of the plaintiff National Housing Authority to comply with the afore-quoted provision of Section 267, R.A. 7160, the deposit not being a tax, fee or charge covered by P.D. 2013 and R.A. 7279 and compliance therewith being a condition precedent to take cognizance of said complaint these Motions to Dismiss collectively, is [sic]. granted.

We hereby order that the Dismissal of the complaint dated 05 June 2000 filed with Us on 19 July 2002 is with prejudice.^[2]

The Court of Appeals affirmed the order of the trial court.

In this Petition for Review on Certiorari^[3] dated 16 May 2006, NHA asserts that under several statutes--namely Presidential Decree (P.D.) No. 1922, P.D. No. 2013 and Republic Act (R.A.) No. 7279--it is exempt from the payment of any and all fees and taxes of any kind, whether local or general. As such, the provision in Section 267 of R.A. No. 7160 requiring the "taxpayer" to deposit with the court the amount equivalent to the value for which the real property was sold, together with the interest of two percent (2%) per month from the date of sale to the time of institution of the action, before the court may entertain an action assailing the

validity of any sale at public auction of real property or rights therein, should allegedly not apply to NHA. Assuming that it is indeed required to make a deposit, NHA avers that a deposit is not necessary in view of the fact that the government is always presumed to be solvent.

In its Comment^[4] dated 7 February 2007, respondent Iloilo City maintains that NHA is required to make a deposit as a jurisdictional requisite before the court can assume jurisdiction over the suit. It claims that NHA cannot take refuge in its theory that it is exempt from making a deposit because it is not a taxpayer and is, within the contemplation of the 2nd paragraph of Article 267 of R.A. No. 7160, merely a juridical person having legal interest in the subject property.

Rosalina Francisco, who is impleaded in the petition because she repurchased the subject property from respondent Iloilo City, filed a Comment/Opposition^[5] dated 21 February 2007, insisting that NHA's failure to make a deposit rendered its action jurisdictionally infirm.

In its Consolidated Reply^[6] dated 26 September 2007, NHA avers that it is not required to make the deposit not only because it is a tax-exempt entity, but more importantly because the government is always presumed to be solvent. It also reiterates the irregularities in the conduct of the delinquency sale, such as the fact that it was not served a copy of the warrant of levy, which allegedly necessitate a review of the case.

There is no doubt that as assiduously pointed out in its petition, NHA is a tax-exempt entity, having been given that status by several laws. However, whether its tax-exempt status vests it with immunity as well from the deposit requirement under Section 267 of R.A. No. 7160 is the issue we are faced with in this case.

The disputed provision on which the spotlight now beams down is rather unsophisticated:

*Sec. 267. Action Assailing Validity of Tax Sale.--*No court shall entertain any action assailing the validity of 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 of 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.

As is apparent from a reading of the foregoing provision, a deposit equivalent to the amount of the sale at public auction plus two percent (2%) interest per month from the date of the sale to the time the court action is instituted is a condition--a "prerequisite," to borrow the term used by the acknowledged father of the Local Government Code^[7] --which must be satisfied before the court can entertain any