510 Phil. 434

THIRD DIVISION

[G.R. NO. 154027, October 24, 2005]

SPOUSES RAMON AND ROSITA TAN, PETITIONERS, VS. GORGONIA BANTEGUI, REPRESENTED BY GUADALUPE B. BAUTISTA; AND SPOUSES FLORANTE AND FLORENCIA B. CAEDO, RESPONDENTS.

DECISION

PANGANIBAN, J.:

The auction sale of land to satisfy alleged delinquencies in the payment of real estate taxes derogates or impinges on property rights and due process. Thus, the steps prescribed by law for the sale, particularly the notices of delinquency and of sale, must be followed strictly. Failure to observe those steps invalidates the sale.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the September 27, 2001 Decision[2] and the June 18, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 51829. The assailed Decision reads as follows:

> "WHEREFORE, finding no reversible error in the judgment appealed from, the same is **AFFIRMED**, with costs against [petitioners]."[4]

The assailed Resolution denied petitioners' Motion for Reconsideration.

The Facts

The antecedents are related by the CA as follows:

> "The subject matter of the controversy is a 232 square-meter lot situated at No. 37-E Calavite St. La Loma, Quezon City, Metro Manila. Said piece of property was registered in the name of [Respondent] Gorgonia Bantegui (Bantegui for brevity), married to Jesus Bayot, under Transfer Certificate of Title [(TCT)] No. 47163 of the Register of Deeds of Quezon City, issued on May 6, 1959, and later reconstituted under [TCT] No. 28458.
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> "Bantegui acquired the property sometime in 1954 and rented it to spouses Florante B. Caedo and Florencia B. Caedo (Caedos for brevity), who resided therein until 1994. In 1970, she left for the United States of America. She returned to the Philippines in January 1988 and executed her special power of attorney[,] making Guadalupe B. Bautista (Bautista for brevity) her representative, [after which], she went back to the United States.

"Her taxes on the subject property were paid[,] but only until 1977. The real property taxes from the year 1978 to 1983 amounting to P3,034.99[,] inclusive of penalties, however, were not paid.

"For failure of Bantegui to pay said taxes, the [c]ity [t]reasurer of Quezon City sold said property at public auction held on November 21, 1984, to the spouses Edilberto and Josefina Capistrano (Capistranos for brevity), for the sum of P10,000.00. The Certificate of Sale of Delinquent Property was subsequently issued in their favor on November 26, 1984.

"Since the property was not redeemed within the one (1) year redemption period, title to said property was consolidated to the Capistranos and [TCT] No. 361851 was issued in their names on June 4, 1987. The Capistranos, however, did not take possession of the land [or inform] the Caedos about the sale or collected any rent from them. They[,] likewise[,] did not pay real property taxes thereon.

"The property was later sold on June 20, 1988 by the Capistranos to spouses Evelyn and Jesse Pereyra (Pereyras for brevity) for P60,000.00. Their TCT was cancelled and a new [TCT] No. 2059 was issued on January 10, 1989 in the name of the Pereyras, who also did not take possession of the property in question. They, however, mortgaged the same to the Rural Bank of Imus, Cavite, which [mortgage] was annotated on the title of the property.

"These transfers were unknown to Bantegui and the Caedos[,] despite the fact that Evelyn Pereyra is the daughter of the Caedos, as the latter did not inform them about anything concerning these transactions. All this time[,] the actual occupants, the Caedos, considered themselves as tenants of Bantegui, such that they paid rent to her until December 1993, when they handed the water pump as payment of their arrears.

"Bantegui, on her part, applied for administrative reconstitution of her title[,] as it was lost in a fire. Reconstituted Title No. 28458 was subsequently issued in her name. She likewise paid the realty taxes on the subject property for the years 1987 to 1989. The [c]ity [t]reasurer of Quezon City, however, refused to accept her payment for the year 1990.

"Meanwhile, on May 3, 1990, said property was again sold by the Pereyras to the spouses Ramon and Rosita Tan (Tans for brevity) for P350,000.00, with the latter paying the amount of P300,000.00 to the Rural Bank of Imus, Cavite for the release of the mortgage per agreement by the parties. They likewise paid the overdue taxes and other expenses incurred by the Pereyras pertaining to said mortgage.

"The Tans, like their predecessors, did not take immediate possession of the property [or inform] the occupants (Caedos) of their title to the land. Towards the latter part of 1990, however, the Tans, thru their lawyer, informed the Caedos of their ownership over the property and demanded that the Caedos vacate the property. They subsequently filed an action for ejectment against the Caedos before the Municipal Trial Court of

> Quezon City on January 18, 1991. On October 31, 1991, the Court ruled in favor of the Tans. The Caedos then interposed an appeal on February 2, 1992[,] which was remanded to the same Court for further proceedings, and for failure of the Caedos to appear during the hearing of the case, they were declared in default and were subsequently ejected from the property on February 20, 1994, when the house that they erected thereon was demolished.
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> "On February 11, 1992, Bantegui, thru her sister Guadalupe Bautista, and joined by the spouses Caedo[,] filed a Complaint for Annulment of Sale, Quieting of Title, Injunction and Damages with the Regional Trial Court of Quezon City. The complaint was later amended on May 14, 1992, impleading the spouses Capistrano and the [c]ity [t]reasurer of Quezon City as co-defendants, and deleting "quieting of title" from the prayer and inserting "reconveyance.'"[5]

After the trial court rendered its Decision[6] in favor of respondents, petitioners appealed to the CA.

Ruling of the Court of Appeals

In declaring that petitioners were not purchasers in good faith and had no better right to the subject property than that of any of their predecessors-in-interest, the appellate court gave the following reasons. *First*, the auction sale was tainted with irregularities: no notices of delinquency and of sale were sent to the owner. *Second*, the owner continued to pay realty taxes on the property, even after the date of the sale. She would not have done so had she been aware that it had already been auctioned off. *Third*, the selling price was grossly inadequate and, when viewed together with the other facts and circumstances, would render the sale itself void. *Fourth*, the purchasers failed to take possession of the property, pay the real taxes, and inform the lessees of the purchase. As a result, the latter continued to pay rent to the owner. As stated earlier, the CA affirmed the trial court's Decision.

Hence, this Petition.[7]

The Issues

Petitioners raise the following issues for the Court's consideration:

> "I.
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> "The Honorable Court of Appeals erred in affirming that the tax sale of Bantegui's property was tainted with irregularities that rendered the same null and void.
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> "II.
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> "The Honorable Court of Appeals erred in affirming that the Resolution of the Quezon City Regional Trial Court, Branch 85, confirming in favor of the Capistranos the final bill of sale of the auctioned property is not conclusive.

"III.

"The Honorable Court of Appeals likewise erred in declaring that the petitioners were not purchasers in good faith and innocent purchasers for value.

"IV.

"The Honorable Court of Appeals erred in affirming that petitioners should pay respondents nominal damages of P50,000 and attorney's fees of P50,000."[8]

The foregoing may be summed up into only one issue: whether the auction sale was valid.

The Court's Ruling

The Petition has no merit.

Sole Issue:

Whether the Auction Sale Was Valid

The tax sale did not conform to the requirements prescribed under Presidential Decree (PD) No. 464, otherwise known as the Real Property Tax Code.[9]

First, no notice of delinquency or of sale was given to either Gorgonia Bantegui, the delinquent owner; or to her representative.

On the one hand, Section 65 of PD 464 provides:

"SECTION 65. Notice of delinquency in the payment of the real property tax. -

"Upon the real property tax or any installment thereof becoming delinquent, the x x x city treasurer shall immediately cause notice of the fact to be posted at the main entrance of the x x x city hall and in a public and conspicuous place in each barrio of the x x x 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 x x x city, if any there be, and announced by a crier at the market place for at least three market days.

"Such notice shall specify the date upon which tax became delinquent, and shall state that personal property may be seized to effect payment. It shall also state that, at any time, before the seizure of personal property, payment may be made with penalty in accordance with the next following section, and further, that unless the tax and penalties be paid before the expiration of the year for which the tax is due, or the tax shall have been judicially set aside, the entire delinquent real property will be sold at public auction, and that thereafter the full title to the property will be and remain with the purchaser, subject only to the right

of delinquent taxpayer or any other person in his behalf to redeem the sold property within one year from the date of sale."

On the other hand, Section 73 of PD 464 states:

"SECTION 73. Advertisement of sale of real property at public auction. -

"After the expiration of the year for which the tax is due, the x x x 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 x x x city or x x x 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 x x x city treasurer, by publication once a week for three consecutive weeks in a newspaper of general circulation published in the x x x 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 x x x 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 x x x city treasurer concerned."

The auction sale of real property for the collection of delinquent taxes is *in personam*, not *in rem*.[10] Although sufficient in proceedings *in rem* like land registration, mere notice by publication will not satisfy the requirements of proceedings *in personam*.[11] "[P]ublication of the notice of delinquency [will] not suffice, considering that the procedure in tax sales is *in personam*."[12] It is still incumbent upon the city treasurer to send the notice directly to the taxpayer -- the registered owner of the property -- in order to protect the latter's interests. Although preceded by proper advertisement and publication, an auction sale is void absent an actual notice to a delinquent taxpayer.[13]

The sale of land "for tax delinquency is in derogation of property rights and due process[;] the prescribed steps must be followed strictly."[14] In the present case, notices either of delinquency or of sale were not given to the delinquent taxpayer. Those notices are mandatory, and failure to issue them invalidates a sale.[15] Because it was clearly in contravention of the requirements under the law and jurisprudence, the subsequent sale of the real property did not make its purchaser the new owner.