

## THIRTEENTH DIVISION

[ CA-G.R. SP NO. 130296, June 30, 2014 ]

**CRESENCIA P. LEABRES-TALATALA, PETITIONER, VS. HON. PRESIDING JUDGE CHARITO B. GONZALES, HEIRS OF LETICIA GRAFIL AND ZENAIDA GECALE, RESPONDENTS.**

### D E C I S I O N

**DIMAAMPAO, J.:**

This Petition for *Certiorari*<sup>[1]</sup> impugns the *Orders* dated 22 January 2013<sup>[2]</sup> and 15 March 2013<sup>[3]</sup> of the Regional Trial Court of Quezon City, Branch 80, which paid no heed to petitioner's Opposition to private respondent's prayer for approval of *Final Bill of Sale, Cancellation of Transfer Certificate of Title (TCT) No. 293288* and issuance of *Writ of Possession*, and denied the Motion for Reconsideration thereof, respectively, in LRC Case No. Q-32364 (11).

The antecedents are quite simple.

In 2007, one Leticia Grafil (Leticia) bought at a public auction a parcel of land measuring 200 square meters, located in *Barangay Bagbag, Quezon City*, and covered by TCT No. 293288, registered in the name of petitioner Cresencia Leabres-Talatala (petitioner). The property was ensuingly auctioned upon petitioner's failure to pay real property taxes from 1999 to 2007.<sup>[4]</sup>

Petitioner failed to redeem the property. Consequently, a *Final Bill of Sale*<sup>[5]</sup> was issued by the Treasurer's Office of Quezon City. Leticia demanded that petitioner vacate the realty, but her demands fell on deaf ears. This impelled Leticia to file the *Petition for Approval of the Final Bill of Sale, Cancellation of TCT No. 293288, Issuance of a New One in the Name of Leticia Grafil and Issuance of a Writ of Possession*.<sup>[6]</sup>

Leticia sold the subject property pending the proceedings. When she died, she was substituted by private respondents, Heirs of Leticia Grafil as well as private respondent Zenaida Gecale, the buyer (private respondents).<sup>[7]</sup>

For the nonce, petitioner filed the contentious *Opposition*<sup>[8]</sup> claiming that she did not receive any notice of delinquency or notice of levy from the Treasurer's Office of Quezon City. She insisted that the auction sale must be nullified as the notice and posting requirements were not duly complied with.

In due course, the court *a quo* issued the first assailed *Order* denying the *Opposition* upon these grounds: (1) the issues raised by petitioner ought to be threshed out in a separate action; and, (2) she failed to deposit before the court *a quo* the amount for which the real property was sold, including interest, in violation of Sec. 267 of

the Local Government Code.<sup>[9]</sup> The court *a quo* thereby set the case for reception of private respondents' evidence.

Petitioner moved for reconsideration but this was denied in the second assailed *Order*.

Unfazed by her string of defeats, petitioner comes to Us for relief. She bewails that the court *a quo* committed grave abuse of discretion in refusing to take cognizance of her *Opposition* for her failure to comply with the deposit requirement. She propounds that she was deprived of due process as she no longer had the opportunity to challenge the validity or regularity of the tax sale.

### **The Petition fails to impress.**

**Sec. 267 of the Local Government Code** mandates in no uncertain words that—

*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 a rule, the deposit requirement is mandatory before any action assailing the validity of tax sale may be given due course. This finds a jurisprudential hook in

**National Housing Authority v. Iloilo City**<sup>[10]</sup>—

“As is apparent from a reading of (Sec. 267 of the Local Government Code), 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 — which must be satisfied before the court can entertain any action assailing the validity of the public auction sale. The law, in plain and unequivocal language, prevents the court from entertaining a suit unless a deposit is made. This is evident from the use of the word "shall" in the first sentence of Section. Otherwise stated, the deposit is a jurisdictional requirement the nonpayment of which warrants the failure of the action.

The deposit requirement, to be sure, is not a tax measure. As expressed in Section 267 itself, the amount deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid; otherwise, it shall be returned to the depositor. The deposit, equivalent to the value for which the real property was sold plus interest, is essentially meant to reimburse the purchaser of the amount he had paid at the auction sale should the court declare the sale invalid.”<sup>[11]</sup>