

## **LOURDES T. PAGUIO, PETITIONER AND APPELLANT, VS. MARIA ROSADO DE RUIZ, OPPOSITOR AND APPELLEE.**

*G. R. No. L-5301. May 30, 1953*

Ponente: TUASON, J.

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### **TUASON, J.:**

This appeal involves the validity of a sale of two parcels of land on Calle Anda, Intramuros, City of Manila, by the City Treasurer for delinquency in the payment of taxes.

These parcels belonged to Amparo Davila Vda. de Barrera and were assessed for taxation purposes in her name. On July 7, 1943, Mrs. Davila executed a deed donating them to four relatives one of whom was the present appellee. One of the donees having died afterwards, her heirs on January 29, 1946, made an extrajudicial settlement of the decedent's estate under the terms of which the appellee became the sole owner of the two lots. But notwithstanding these transfers of ownership, the parcels were allowed to continue in the original owner's name in the real estate register.

The tax on the property for the year 1947 not having been paid, the lots were advertised for sale to satisfy the tax, penalty and costs of sale, for the period of 30 days immediately preceding November 27, 1947, the date set for the sale. To this end notice was published on October 28 and November 4 and 11 in Bagong Balita, a newspaper said to be of general circulation, and posted at these places: the Court of First Instance in Intramuros, the Post Office, the Supreme Court, the San Andres Public Market and the Paco Public Market, all in Manila.

Both parcels were awarded to Lourdes T. Paguio, the herein appellant, as the highest and only bidder for P100.67, which just covered the unpaid tax, penalty and costs, and the City Treasurer there and then issued to her the corresponding certificate of sale. But before the expiration of one year the City Treasurer mailed three letters, the last one being registered, addressed to Amparo Davila Vda. de Barrera at her recorded residence at 202 Anda Street, Intramuros, Manila, in which it was stated that her property had been sold to the appellant subject to her right of redemption within one year from the date of sale. All these letters of course were returned, the addressee having died and her former home at the above address having been destroyed, and no offer to redeem the property having been made within the year prescribed for that purpose, the City Treasurer on May 11, 1949, delivered a final and absolute deed of conveyance to the purchaser.

Possessed of this document and for the purpose of registering the same, Mrs. Paguio, on June 16, 1949, filed a petition with the Court of First Instance of Manila in G.L.R.O. Cadastral Record No. 154, praying that Maria Rosado de Ruiz, the appellee, whom she claimed to have recently discovered to be the registered owner of the lots, be ordered to surrender to the Register of Deeds her owner's duplicate certificates and that should she fail to do so the said certificates be declared null and void and new ones issued in lieu thereof in her favor free from all liens and encumbrances.

Notified of this petition, Maria Rosado de Ruiz, through counsel, filed an opposition stating that she had not been notified of any tax delinquency on, or the sale of, the property either by the petitioner or the City Treasurer; that

Amparo Davila Vda. de Barrera having ceased on November 27, 1947, to be the owner of the said property, the petitioner did not acquire any right thereto under the auction sale; that she was in actual possession of the property and could not be deprived of her rights and interest therein, without due process of law.

The court sustained Mrs. Ruiz' opposition on the authority of *Lopez vs. Director of Lands*, 47 Phil. 23, and denied the petition.

The case of *Mercedes D. Valbuena et al. vs. Aurelio Reyes et al.*,[\*] G. R. No. 48177, September 30, 1949, is decisive of this appeal. The facts are substantially identical and upon those facts the court, through Mr. Justice Montemayor, said:

"The death of Mercedes Valbuena in 1931 could, in no manner affect the validity of the tax sale conducted by the City Treasurer in 1937. It was not necessary for the Treasurer to notify her as delinquent taxpayer, of the intended sale of her property. It is true, that ordinarily, to enforce payment of delinquent real estate taxes, the Treasurer may seize and distrain personal property of the delinquent taxpayer and sell the same to satisfy the delinquency. In this manner, the office of the Treasurer comes into contact and establishes direct relations with the taxpayer. Said taxpayer comes to know that he or she is delinquent. However, in the City of Manila, under section 2498 of the Revised Administrative Code, as amended by Act 4173, the City Treasurer need not seize personal properties but may go directly against the delinquent real property. He need not personally notify the delinquent taxpayer. Under section 2497 of the Revised Administrative Code, taxes and penalties assessed against realty shall constitute a lien enforceable against the property whether in the possession of the delinquent or any subsequent owner. All that the Treasurer is required to do by the law is to advertise the property for sale, post notices in public places and in the district where the real estate lies and publish that advertisement or notice thereof in a newspaper of general circulation, once a week for three consecutive weeks. All this, the City Treasurer has done. He even published the advertisement in three newspapers instead of only one as required by law. And he sent a personal notice to Mercedes Valbuena at her address appearing in his records notifying her that the period of redemption of the parcel of land that had been sold to Aurelio Reyes will expire on May 3, 1938, although the law does not require him to do so. So, the position taken by the plaintiffs appellants that the tax sale of the property in question was invalid because Mercedes Valbuena was not personally notified thereof, is clearly untenable."

Much as we may sympathize with the appellee, this one case where the courts have no option but to apply the law and give the petitioner the remedy she seeks. The law is positive and leaves us no choice. It is harsh and drastic, but it is a necessary means of insuring the prompt collection of taxes so essential to the life of the Government.

Yet it was her gross negligence which brought about, the appellee's predicament. Knowing her property to be subject to tax, she neglected to pay her obligation. Vigorous in her protest that she was not given opportunity to protect her rights, she at least neglected to put the Government in a position to allow her that opportunity. And this, notwithstanding the categorical mandate of section 2484 of the Revised Administrative Code, which she was presumed to know, and which makes it "the duty of each person" acquiring real estate in the city to make a new declaration thereof, with the advertence that failure to do so shall make the assessment in the name of the previous owner "valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner."

With regret, we have to, as we hereby do, reverse the appealed order and direct that the petition of the appellant be granted, without special finding as to costs.

Paras, C. J., Feria, Pablo, Bengzon, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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[\*] 84 Phil. 677.

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