

IN RE: PETITION FOR THE ISSUANCE OF FOUR NEW CONDOMINIUM CERTIFICATES OF TITLE AND TO DECLARE NULL AND VOID CONDOMINIUM CERTIFICATES OF TITLE NOS. 64023[] & 593823, JEROME K. SO...

Ponente: LIBREA-LEAGOGO, J.

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LIBREA-LEAGOGO, J.:

Before this Court is an appeal under Rule 41 of the Rules of Court, assailing the Orders dated 02 October 2012[1] and 19 February 2013[2] issued by the Regional Trial Court, National Capital Judicial Region, Branch 133, City of Makati in the case entitled “In Re: Petition for the Issuance of Four New Condominium Certificates of Title and to Declare Null and Void Condominium Certificates of Title Nos. 64023 and 593823”, docketed as LRC Case No. M-5031, which ruled in favor of petitioner-appellee and denied oppositor-appellant's Motion for Reconsideration, respectively.

Oppositor-appellant filed its Brief[3] dated 25 September 2013. Petitioner-appellee also filed his Brief[4] dated 19 December 2013. Per JRD verification[5] dated 11 March 2014, no reply brief was filed as per docket book entry. Thus, the case is submitted for decision.

FACTUAL ANTECEDENTS

A Petition[6] entitled In Re: Petition for Issuance of Four (4) New Condominium Certificates of Title and to Declare Null and Void Condominium Certificates of Title Nos. 64023 and 593823” was filed by petitioner Jerome K. Solco before the Regional Trial Court of the City of Makati, docketed as LRC Case No. M-5031.

It was alleged, inter alia, that: petitioner bought several condominium units at public auction conducted by the City Government of Makati on 20 December 2005; he is the highest bidder in the amount of Php 32,356.83 for a condominium unit covered by Condominium Certificate of Title (“CCT”, for brevity) No. 64023 registered in the name of Megaworld Properties and Holdings, Inc., (“Megaworld”, for brevity), more specifically described as Parking Area No. 4 in the basement 3 parking of the Manhattan Square Condominium located at Valero St., Salcedo Village, Makati City consisting of 12.50 sq. meters more or less; he is also the highest bidder for Php 33,080.03 for a condominium unit covered by CCT No. 593823 registered in the name of Megaworld, more specifically described as Parking Area No. 22 TLS in the P-3 of Two Lafayette Square Condominium located at Tordesillas Street, Salcedo Village, Makati City consisting of 12 sq. meters more or less; the City Government of Makati, as vendor, issued certificates of sale to him on 20 December 2005; the registered owner or any persons having legal interests thereon did not redeem the properties since the date of sale on 20 December 2005; the Final Deeds of Conveyance were executed by the local treasurer conveying to him the said properties free from liens of the delinquent taxes, interests due thereon and expenses of the sales; he paid the withholding tax due including the documentary stamp taxes covering the said transactions; the CCTs still bear the names of the previous owner as appearing in the records of the Register of Deeds of Makati City; the owner's duplicate copies are still in the possession of Megaworld and it failed to surrender the possession thereof; and he prayed for the cancellation of

CCT Nos. 64023 and 593823 and for the Register of Deeds of Makati City to issue new CCTs in his favor.

Oppositor Megaworld filed a Comment on/Opposition to Petition with Compulsory Counterclaims[7] dated 24 March 2008. It was alleged, inter alia, that: Megaworld was formerly known as “Megaworld Properties and Holdings, Inc.”; it is the developer of The Manhattan Square Condominium (“TMS”, for brevity) and the Two Lafayette Square Condominium (“TLS”, for brevity); TMS is situated at Valero Street, while TLS is situated at Tordesillas Street, both at Salcedo Village, Makati City; the subject parking slots covered by the CCTs subject of the Petition are parking slots at the TMS and TLS; Parking Area No. 4-Basement 3 in the TMS is covered by CCT No. 64023, and Parking Area No. 22-P3 of TLS is covered by CCT No. 593823; the subject CCTs still stand in the name of Megaworld; on 02 November 1994, Megaworld, as seller, and Abdullah D. Dimaporo (“Dimaporo”, for brevity), as buyer, entered into a Contract to Buy and Sell covering Unit 19-B and Parking Area No. 22-P3 of TLS for the purchase price of Php 7,865,254.50, payable in installment; on 24 February 1996, Megaworld, as seller, and Jose delos Santos (“Delos Santos”, for brevity), as buyer, entered into a Contract to Buy and Sell covering Unit 9-J and Parking Area No. 4-Basement 3 of TMS for the purchase price of Php 3,141,000.00, payable in installment; Unit 19-B and Parking Area No. 22-P3 of TLS were accepted by Dimaporo on 18 March 1999, while Unit 9-J and Parking Area No. 4-Basement 3 of TMS were accepted by Delos Santos on 05 May 1999; the buyers assumed all obligations, assessments and taxes pertaining to their respective units since the time of delivery pursuant to their agreements with Megaworld; since Megaworld is not anymore responsible for the payment of real property taxes on the subject units upon delivery to the buyers, it did not pay the same starting the year 2000; sometime in the third quarter of 2006, Delos Santos requested Megaworld to facilitate the transfer of the subject properties in his name; in a letter dated 21 October 2006, Megaworld advised Delos Santos that the documents for the transfer of the subject properties in his name are ready including information on the various expenses needed to effect such transfer; in the said letter, Megaworld, specifically stated that the real estate tax must be settled directly with the City Treasurer of Makati City; on 19 January 2007, Megaworld paid the documentary stamp taxes for such transfer; on 30 January 2007, Megaworld secured the Tax Clearance Certificate and the Certificate Authorizing Registration from the Bureau of Internal Revenue; Megaworld paid the transfer tax with the City Treasurer of Makati as evidenced by Official Receipt No. 0333069; its representative then proceeded to the Real Property Tax Division to obtain the Tax Clearance from the City Government of Makati; it was then that Megaworld learned that Unit 9J and Parking Area No. 4-Basement 3 were auctioned off and that the redemption period has expired; its investigation revealed that fatal anomalies tainted the auction proceedings; neither Megaworld nor the genuine beneficial owners received a copy of the alleged warrants of levy purportedly issued by the City Treasurer of Makati; the Notice of Delinquency was not posted in a conspicuous place in each barangay of Makati City; the published notice did not state the necessary recitals prescribed in Sec. 254 of the LGC; the purported warrants of levy of the subject units were not properly served upon the Register of Deeds and the City Assessor; the same were not annotated by the Register of Deeds in the condominium certificates of title and by the City Assessor in the tax declarations in violation of Sec. 258 of the LGC; the levying officer did not verify receipt by Megaworld of the alleged warrants of levy and did not submit a written report on the completion of the service of warrants of levy to the City Council; the City Treasurer proceeded with the advertisement of the public sale of the subject units despite the absence of due notice to Megaworld and the service to the Register of Deeds and the City Assessor of the warrants of levy; the advertisement of sale and the public sale must be made only after service of the warrant; the subject properties were auctioned off at measly amounts; it appears that petitioner was the lone bidder notwithstanding the prime location and marketability of the subject slots, which render the auction thereof highly suspect; stenographic notes and minutes of the auction proceedings purportedly held on 20 December 2005 were not taken down and prepared; Delos Santos instituted a separate and independent action with the Regional Trial Court of Makati impleading petitioner, Megaworld, the City Treasurer of Makati and the Register of Deeds, as defendants, to nullify the auction proceedings and to vindicate his title over his

properties; had the notice of delinquency been properly posted and published, Megaworld and the genuine beneficial owners could have prevented the sale by paying the total delinquency, or at the very least, the subject parking slots could have been sold for much larger sums; an examination of the subject CCTs reveals that the warrants of levy were annotated only on 05 January 2006, on the same date that the Certificates of Sale were annotated, only upon the instance of a certain Jocelyn de Pedro, a representative of petitioner; the auction sale took place without a valid levy; notwithstanding the request of Megaworld for copies of the Minutes and transcript of stenographic notes of the 20 December 2005 auction proceedings, the City Treasurer, to date, has not furnished Megaworld with said documents; the subject parking slots were sold to petitioner, the lone bidder, at only Php32,356.83 for parking slot

No. 4-Basement 3 and Php33,080.03 for parking slot No. 22-Podium 3; the prevailing market value of the subject parking slots is Php812,500.00 each; the subject parking slots were sold at less than five percent (5%) of the prevailing market rates; assuming, without admitting, that the auction sale is valid, the genuine beneficial owners of the subject parking slots are entitled to the same; a purchaser of real estate in tax sale obtains only such title as that held by the taxpayer; applying the principle of caveat emptor in this case, petitioner acquired only the rights of Megaworld over the subject parking slots; petitioner is a buyer in bad faith; when land sold is in the possession of a person other than the vendor, the purchaser is required to go beyond the certificate of title and make inquiries concerning the rights of the actual possessor; the genuine beneficial owners of the subject units, and not Megaworld, were in possession thereof since 1999; and the fact that the subject units are in the possession of persons other than the registered owner should have prompted petitioner to inquire into the circumstances of the title of Megaworld.

A Motion to Dismiss[8] dated 15 April 2010 was filed by petitioner insofar as CCT No. 64023 is concerned in view of the Compromise Agreement that the former entered into with Delos Santos. The said Motion was granted in an Order[9] dated 21 May 2010, where the Certificate of Title No. 64023 under LRC Case No. M-5031 was ordered dismissed.

Trial ensued.

Petitioner presented Jeselle Solco[10] (“Jeselle”, for brevity) as lone witness and filed his Formal Offer of Exhibits[11] dated 02 November 2010, submitting Exhibits “A” to “H”. Oppositor filed its Objections/Comments etc.,[12] dated 02 December 2010. In an Order[13] dated 06 December 2010, the lower court admitted petitioner's exhibits as part of the testimony of the witness.

Oppositor filed its Demurrer to Evidence[14] dated 27 January 2011. In an Order[15] dated 15 June 2011, the lower court denied the same for lack of merit, in so far as TCT No. 593823 is concerned. Oppositor presented Adalia Nepomuceno[16] (“Adalia”, for brevity) as its lone witness and filed its Formal Offer of Documentary Evidence[17] dated 09 February 2012.

On 02 October 2012, the lower court rendered its assailed Order,[18] the dispositive portion of which reads:

“WHEREFORE, premises considered, finding the petition to be sufficiently established being supported by the evidence on records, judgment is hereby rendered in favor of the petitioner Jerome K. Solco ordering the oppositor Megaworld Corporation (formerly known as Megaworld Properties and Holdings, Inc.) and/or any other person withholding the owner's duplicate Condominium Certificate of Title No. 59382 (sic) of the Registry of Deeds of Makati to surrender the same to the Registry of Deeds, and directing it to issue a new condominium certificate of title upon such surrender.

In the event that the said certificate of title is not surrendered, the same is hereby annulled, and the Registrar of Deeds for the City of Makati is ordered to issue a new one in the name of the petitioner Jerome K. Solco on the

basis of the Certificate of Sale in his favor, after payment of the required legal fees.

SO ORDERED.”[19]

Oppositor filed a Motion for Reconsideration[20] dated 31 October 2012. The same was denied in the assailed Order[21] dated 19 February 2013. Oppositor filed a Notice of Appeal[22] dated 14 March 2013, which was granted in the Order[23] dated 14 March 2013.

Hence, this appeal.

RULING

Oppositor-appellant assigns the following errors, viz:

“FIRST ASSIGNED ERROR

THE LOWER COURT GRAVELY ERRED IN RULING THAT PETITIONER-APPELLEE JEROME SOLCO DISCHARGED HIS BURDEN OF PROOF TO ESTABLISH THE JURISDICTIONAL AND EVIDENTIARY REQUIREMENTS FOR THE LRC PETITION.

A. The Lower Court violated basic rules on admissibility of evidence when it admitted the evidence of Solco in its 6 December 2010 Order ('First Appealed Order'), over the valid and substantial objections of Megaworld.

B. The Lower Court contravened settled rules and jurisprudence on burden of proof in tax delinquency proceedings when it denied Megaworld's Demurrer to Evidence in its Order dated 15 June 2011 ('Second Appealed Order').

C. In granting the LRC Petition in its 2 October 2012 and 19 February 2013 Orders ('Appealed Decision' and 'Third Appealed Order'), the Lower Court brushed aside the jurisdictional and evidentiary requirements for the LRC Petition.

SECOND ASSIGNED ERROR

THE LOWER COURT GRAVELY ERRED IN OVERLOOKING THE UNDISPUTED FATAL IRREGULARITIES WHICH PERVADED THE ENTIRE AUCTION PROCEEDINGS WHICH DEPRIVED MEGAWORLD AND THE GENUINE BENEFICIAL OWNER OF THE SUBJECT PARKING SLOT OF THEIR SUBSTANTIVE RIGHTS.

A. The City Treasurer failed to properly levy on the subject parking slot in violation of the mandatory requirements of Sec. 258 of the Local Government Code (LGC).

B. The Notice of Delinquency was not posted in a conspicuous place in each barangay of Makati City and the published Notice did not contain the necessary recitals in Violation of Sec. 254 of the LGC and Sec. 2A.44 of the Makati Revenue Code.

C. The City Treasurer failed to comply with the requirements of Sec. 260 of the LGC on mandated pre-requisites before proceeding with advertisement and public auction.

THIRD ASSIGNED ERROR

WITH MANIFEST BIAS AND PARTIALITY, THE LOWER COURT OVERLOOKED THE UNDISPUTED ARGUMENT OF MEGAWORLD AND EVIDENCE ON RECORD THAT THE SUBJECT PARKING SLOT WAS SOLD AT A SHOCKINGLY LOW PRICE WHICH RENDERED THE SALE NULL AND VOID.

FOURTH ASSIGNED ERROR

ASSUMING FOR THE SAKE OF ARGUMENT THAT THE AUCTION SALE IS NOT ALTOGETHER VOID, SOLCO ACQUIRED ONLY THE INTEREST OF MEGAWORLD AS NAKED REGISTERED OWNER OF THE SUBJECT PARKING SLOT, SUBJECT TO THE RIGHTS OF THE GENUINE BENEFICIAL OWNER THEREOF UNDER THE PRINCIPLE OF CAVEAT EMPTOR. MOREOVER, SOLCO IS A BUYER IN BAD FAITH. THUS, THE GENUINE BENEFICIAL OWNER OF THE SUBJECT PARKING SLOT IS ENTITLED TO THE SAME.” [24]

Oppositor-appellant contends, inter alia, that: on 09 November 2007, petitioner-appellee filed the Petition for issuance of four new CCTs; the verification and certification attached to the Petition did not indicate any competent evidence of identity in violation of the 2004 Notarial Rules; the lower court issued an Order dated 29 February 2008 holding that the Petition was sufficient; on 06 December 2010, the lower court admitted the exhibits of petitioner-appellee and merely noted its objections which go into the admissibility of the petitioner-appellee's evidence; the lower court violated its duty under Section 38 of Rule 132 of the Rules of Court to rule on the objections presented; the lower court erred when it reasoned that its demurrer is based merely on technicality and considered the other grounds as matters that should be ventilated in its presentation of evidence; petitioner did not submit any evidence to prove compliance with Sections 254 and 258 of the LGC; the notice of real property tax delinquency did not state that the personal property may be distrained to effect payment and that anytime before the distraint, payment of the tax, surcharges, interests and penalties may be made in accordance with Sec. 255 of the LGC, and unless the same are paid, the property will be sold subject to the right of redemption of the delinquent owner; the fatal irregularities pervading the entire auction proceedings constitute compelling reasons to allow Megaworld and/or the beneficial genuine owner to redeem the subject parking slot despite the alleged lapse of the redemption period and be allowed to pay the amount of the delinquent taxes directly to the City Treasurer or otherwise redeem the subject parking slot from petitioner-appellee; the LRC Petition should be dismissed; the entire auction proceedings relative to the subject parking slot, including the levy thereof, the auction sale conducted on 20 December 2005, the Certificate of Sale and Final Deeds of Conveyance issued by the City Treasurer of Makati should be declared as null and void; the Register of Deeds should cancel entry numbers 26362 and 26363 appearing on CCT No. 593823; and in the alternative, assuming that the auction proceedings are not altogether void, for Megaworld and/or the genuine beneficial owner of the subject parking slot to be allowed to redeem the same by paying the price paid by petitioner-appellee.

Petitioner-appellee ripostes, inter alia, that: with respect to the case instituted by him, he had his Petition dismissed only insofar as the property covered by CCT No. 64023 is concerned in view of their Compromise Agreement; oppositor-appellant's conclusions are erroneous because a pleading such as the Petition filed by him need not be verified; the purported defects and irregularities in the tax delinquency proceedings were not specified in oppositor-appellant's Comment and/or Opposition; the admission of his documentary evidence clearly means that oppositor-appellant's objections to the admission thereof were overruled; its objections merely concentrated on the purported inadmissibility of the Petition on the ground that the notarization of its verification and certification against forum shopping was in violation of the 2004 Notarial Rules; oppositor-appellant already submitted itself to the jurisdiction of the lower court and thus waived all objections pertaining thereto; assuming that the verification of the Petition dated 05 October 2007 was not properly notarized, it merely suffers from a formal defect; oppositor-appellant presented four Barangay Certifications issued by Barangays Bangkal, Cembo, Guadalupe Nuevo and Pinagkaisahan of Makati City; however, nothing therein says that the Notices of Real Proper Tax Delinquency issued by the City Government of Makati were not posted; while the City Treasurer of Makati caused the posting of the Notices of Real Property Tax Delinquency, he may not have given copies thereof to Barangays Guadalupe Nuevo and Pinagkaisahan because what was merely required is the posting thereof;

relative to its allegation that it did not receive a warrant of levy, it is clear from the evidence adduced by the parties that it received from the City Treasurer's Office of Makati a Warrant of Levy dated 25 November 2005, informing it that the property covered by CTC No. 593823 is delinquent in tax payments for the years 1999-2005; oppositor-appellant simply chose to ignore the said Warrant of Levy because of its erroneous belief that it is not anymore liable to pay real property taxes; taking into consideration the nature of the forced sale of the property covered by CCT No. 593823, petitioner-appellee's bid for the property is not grossly inadequate; mere inadequacy of the purchase price is not a valid reason to nullify the forced sale at public auction; CCT No. 593823 is registered in the name of oppositor-appellant only and no inscription thereon would have led petitioner-appellee to believe that the same was owned by another; assuming that one of the condominium units was indeed sold to Dimaporo, the sale is unregistered or unrecorded at the time of the auction sale; insofar as the City Government of Makati City is concerned, oppositor-appellant is still the registered owner of the subject property and the one liable to pay the taxes; it was not shown that he was aware of the alleged prior sale of the property to Dimaporo, thus the imputation of bad faith against him lacks factual and legal bases; and the City Treasurer of Makati complied with all the rules pertaining to the sale of the delinquent real property and the redemption period has already elapsed without any person who has an interest therein, redeeming the subject property.

Stripped of the parties' verbiage, the pivotal issues in this case are whether or not the lower court erred in rendering judgment in favor of petitioner-appellee and ordering oppositor-appellant and/or any other person holding the owner's duplicate of CCT No. 593823 to surrender the same to the Register of Deeds of Makati City and directing the latter to issue a new CCT upon its surrender; and in the event that the same is not surrendered, in declaring the same nullified and ordering the Register of Deeds of Makati City to issue a new one in petitioner-appellee's name.

We find in the affirmative.

It bears stressing that only CCT No. 593823 is involved in the instant appeal. With respect to CCT No. 64023 in LRC Case No. M-5031, the same was already dismissed by the lower court in its Order[25] dated 21 May 2010, based on the parties' manifestation that they already executed a compromise agreement with respect to the same.

At the outset, regarding petitioner-appellee's failure to indicate in his Verification/Certification any competent evidence of identity, it has been held that (a) defective jurat in the Verification/Certification of Non-Forum Shopping is not a fatal defect because it is only a formal, not a jurisdictional, requirement that the Court may waive.[26]

In the instant case, CCT No. 593823[27] of the Registry of Deeds for the City of Makati is registered in the name of oppositor-appellant Megaworld. The subject unit (hereinafter "subject parking slot") is identified and described in the said title as "PARKING AREA NO. 22 TLS in the P-3 of TWO LAFAYETTE SQUARE Condominium, located at Tordesillas Street, Salcedo Village, Makati City, Philippines consisting of Twelve square meters (12.00), more or less." [28] Due to a supposed tax delinquency, the subject parking slot was sold at public auction to petitioner-appellee as the highest bidder in the amount of Php 33,080.03 as stated in the Certificate of Sale[29] dated 20 December 2005 issued by Makati City Treasurer Nelia A. Barlis. For the purported failure of oppositor-appellant to redeem the said parking slot, a Final Deed of Conveyance[30] dated 22 February 2007 was issued by the City Government of Makati in favor of petitioner-appellee. As testified to by oppositor-appellant's witness Adalia C. Nepomuceno, Megaworld's Manager of the Contract Management Department, the company only came to know in 2007, by accident, that the subject parking slot was auctioned off when its representative was in the process of obtaining a tax clearance.[31]

Oppositor-appellant posits that fatal irregularities pervaded the entire auction proceedings which deprived it of its

substantive right, rendering the same null and void.

We agree.

Sections 254, 256, 258 and 260 of Republic Act No. 7160, otherwise known as the Local Government Code, provide:

“SECTION 254. Notice of Delinquency in the Payment of the Real Property Tax. — (a) When the real property tax or any other tax imposed under this Title becomes delinquent, the provincial, city or municipal treasurer shall immediately cause a notice of the delinquency to be posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each barangay of the local government unit concerned. The notice of delinquency shall also be published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality.

(b) Such notice shall specify the date upon which the tax became delinquent and shall state that personal property may be distrained to effect payment. It shall likewise state that at any time before the distraint of personal property, payment of the tax with surcharges, interests and penalties may be made in accordance with the next following section, and unless the tax, surcharges and penalties are paid before the expiration of the year for which the tax is due, except when the notice of assessment or special levy is contested administratively or judicially pursuant to the provisions of Chapter 3, Title II, Book II of this Code, the delinquent real property will be sold at public auction, and the title to the property will be vested in the purchaser, subject, however, to the right of the delinquent owner of the property or any person having legal interest therein to redeem the property within one (1) year from the date of sale.

x x x x

SECTION 256. Remedies for the Collection of Real Property Tax - For the collection of the basic real property tax and any other tax levied under this Title, the local government unit concerned may avail of the remedies by administrative action thru levy on real property or by judicial action.

x x x x

SECTION 258. Levy on Real Property. — After the expiration of the time required to pay the basic real property tax or any other tax levied under this Title, real property subject to such tax may be levied upon through the issuance of a warrant on or before, or simultaneously with, the institution of the civil action for the collection of the delinquent tax. The provincial or city treasurer, or a treasurer of a municipality within the Metropolitan Manila Area, as the case may be, when issuing a warrant of levy shall prepare a duly authenticated certificate showing the name of the delinquent owner of the property or person having legal interest therein, the description of the property, the amount of the tax due and the interest thereon. The warrant shall operate with the force of a legal execution throughout the province, city or a municipality within the Metropolitan Manila Area. The warrant shall be mailed to or served upon the delinquent owner of the real property or person having legal interest therein, or in case he is out of the country or cannot be located, the administrator or occupant of the property. At the same time, written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the Registrar of Deeds of the province, city or municipality within the Metropolitan Manila Area where the property is located, who shall annotate the levy on the tax declaration and certificate of title of the property, respectively.

The levying officer shall submit a report on the levy to the sanggunian concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein.

x x x x

SECTION 260. Advertisement and Sale. — Within thirty (30) days after service of the warrant of levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may

be necessary to satisfy the tax delinquency and expenses of sale. The advertisement shall be effected by posting a notice at the main entrance of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the barangay where the real property is located, and by publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall specify the amount of the delinquent tax, the interest due thereon and expenses of sale, the date and place of sale, the name of the owner of the real property or person having legal interest therein, and a description of the property to be sold. At any time before the date fixed for the sale, the owner of the real property or person having legal interest therein may stay the proceedings by paying the delinquent tax, the interest due thereon and the expenses of sale. The sale shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold, or at any other place as specified in the notice of the sale.

Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. The local treasurer shall likewise prepare and deliver to the purchaser a certificate of sale which shall contain the name of the purchaser, a description of the property sold, the amount of the delinquent tax, the interest due thereon, the expenses of sale and a brief description of the proceedings: Provided, however, That proceeds of the sale in excess of the delinquent tax, the interest due thereon, and the expenses of sale shall be remitted to the owner of the real property or person having legal interest therein.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection through the remedies provided for in this Title, including the expenses of advertisement and sale.”
(Underscoring supplied)

Petitioner-appellee, in violation of the aforequoted provisions of R.A. No. 7160, utterly failed to present and offer in evidence the following: proof of posting of the notice of delinquency in the payment by oppositor-appellant of the real property taxes over the subject parking slot, at the main entrance of Makati City hall and in a publicly accessible and conspicuous place in each barangay of Makati City; proof of publication of the notice of delinquency, once a week for two (2) consecutive weeks, in a newspaper of general circulation in Makati City; proof that the warrant of levy was mailed to or served upon oppositor-appellant Megaworld; a report on the levy, submitted by the levying officer to the sanggunian of Makati City, within ten (10) days after receipt of the warrant of levy by oppositor-appellant, the registered owner of the subject parking slot; and report of the sale to the sanggunian of Makati City made by the local treasurer or his deputy, within thirty (30) days after the sale. Petitioner-appellee's Formal Offer of Exhibits[32] does not show any exhibit showing compliance with the foregoing requirements of R.A. No. 7160.

There can be no presumption of the regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale.[33] It has been ruled that the notices and publication, as well as the legal requirements for a tax delinquency sale xxx are mandatory and that failure to comply therewith can invalidate the sale in view of the requirements of due process.[34] Whether or not a copy of the warrant of levy was mailed to or served upon oppositor-appellant is essentially a factual question and proof of the same should have been established in evidence by petitioner-appellee before the lower court.

(T)here are two remedies for the collection of real property tax: (1) by administrative action through levy on real property; and (2) by judicial action.[35]

In the instant case, the Warrant of Levy[36] is dated 25 November 2005, but there is another handwritten date therein, that it was issued on 20 December 2005. It bears to stress that the public auction sale transpired also on 20 December 2005. It is highly irregular that the warrant of levy was issued on the same date as the auction sale of the subject parking slot. Further, the said Warrant of Levy was addressed to oppositor-appellant. However, a

cursory look of the same evinces that the Acknowledgment[37] portion is in blank and does not indicate any signature and printed name of the oppositor-appellant or its representative showing receipt of the Warrant of Levy.

(I)t is 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. xxx (A)n auction sale is void absent an actual notice to a delinquent taxpayer. As to who is the taxpayer entitled to notice, it is the declared or registered owner as appearing in the tax rolls or property tax record cards of the municipality or city where the property is located.[38]

Neither was there any proof presented and offered in evidence by petitioner-appellee that before the auction sale was held, the written notice of levy with the attached warrant was mailed to or served upon the assessor and the Register of Deeds of Makati City where the subject parking slot is located, who shall annotate the levy on the tax declaration and CCT No. 593823 of the subject parking slot, as required under Section 258 of R.A. No. 7160.

In the instant case, it appears that the auction sale of the subject parking slot was held at the Makati City Hall on 20 December 2005.[39] However, as clearly shown on Entry No. 26362[40] of CCT No. 593823, the Notice of Levy was only inscribed on 05 January 2006, or sixteen (16) days after the auction sale already transpired. In fact, the Notice of Levy was annotated on CCT No. 593823 on the same date when the Certificate of Sale under Entry No. 26363[41] was inscribed. This violates Section 258 of R.A. No. 7160 which requires that the notice of levy with the attached warrant should be served to the Register of Deeds of Makati City who shall annotate the same on CCT No. 593823 of the subject parking slot. Under Section 260 of R.A. No. 7160, the Makati City Treasurer shall proceed with the advertisement for sale and auction of the subject parking slot within thirty (30) days after service of the warrant of levy. Here, no such service of the warrant of levy was first made to oppositor-appellant and to the Register of Deeds of Makati City before the auction sale was made, as plainly shown by the simultaneous inscription on 05 January 2006 on CCT No. 593823 of both the Notice of Levy and Certificate of Sale.

(S)trict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible suspicion of collusion between the buyer and the public officials called upon to enforce the laws. Notice of sale to the delinquent land owners and to the public in general is an essential and indispensable requirement of law, the non-fulfillment of which vitiates the sale. Thus, the holding of a tax sale despite the absence of the requisite notice is tantamount to a violation of delinquent taxpayer's substantial right to due process. Administrative proceedings for the sale of private lands for nonpayment of taxes being in personam, it is essential that there be actual notice to the delinquent taxpayer, otherwise the sale is null and void xxx.[42] 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. Those notices are mandatory, and failure to observe those steps invalidates the sale.[43] (While) (i)t is true that the lower the price, the easier it will be for the owner to effect redemption, the fact remains that without the mandatory notices, the registered owner will never be given the opportunity to redeem the property, despite the lapse of one year from the date the sale is registered.[44]

Considering the foregoing disquisition, We rule that the lower court seriously erred in issuing the assailed Orders dated 02 October 2012 and 19 February 2013 which are null and void. Thus, We find no necessity to pass upon the other matters raised by the parties.

WHEREFORE, premises considered, the appeal is GRANTED. The Orders dated 02 October 2012 and 19 February 2013 of the Regional Trial Court, National Capital Judicial Region, Branch 133, City of Makati in LRC Case No. M-5031, are REVERSED and SET ASIDE. The entire auction proceedings of the subject parking slot

covered by Condominium Certificate of Title No. 593823 of the Registry of Deeds for the City of Makati, including the levy thereof and the auction sale as well as the Certificate of Sale dated 20 December 2005 and Final Deed of Conveyance dated 22 February 2007 are all NULLIFIED. The Makati City Register of Deeds is hereby ORDERED to cancel Entry Nos. 26362 and 26363 inscribed on CCT No. 593823. The Petition dated 05 October 2007 is DISMISSED as to CCT No. 593823. Costs against petitioner-appellee.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Diamante, and Sadang, JJ., concur.

[*] In the Order dated 21 May 2010, Certificate of Title No. 64023 was dismissed; record, p. 140

[1] Rollo, pp. 81-86; issued by Hon. Elpidio R. Calis

[2] Id. at 87-88

[3] Id. at 34-77

[4] Id. at 107-130

[5] Id. at 132 (dorsal side)

[6] Record, pp. 1-4

[7] Id. at 38-72

[8] Id. at 128-129

[9] Id. at 140

[10] TSNs, 19 August 2010, pp. 1-12; 27 September 2010, pp. 1-20; 21 October 2010, pp. 1-15

[11] Record, pp. 156-160

[12] Id. at 166-176

[13] Id. at 177

[14] Id. at 178-198

[15] Id. at 204-205

[16] TSNs, 03 November 2011, pp. 1-45; 26 January 2012, pp. 1-4

[17] Record, pp. 229-234

[18] Id. at 262-267

[19] Id. at 266-267

- [20] Id. at 268-293
- [21] Id. at 296-297
- [22] Id. at 302-306
- [23] Id. at 309
- [24] Rollo, pp. 39-41
- [25] Record, p. 140
- [26] Advance Paper Corporation, et al. v. Arma Traders Corporation, et al., G.R. No. 176897, 11 December 2013
- [27] Record, pp. 17-19
- [28] Id. at 17
- [29] Id. at 20
- [30] Id. at 22-23
- [31] TSN, 03 November 2011, pp. 34-35
- [32] Record, pp. 156-159
- [33] Spouses Amancio and Luisa Sarmiento, et al. v. The Hon. Court of Appeals, et al., G.R. No. 152627, 16 September 2005
- [34] Cf. Valbueco Inc. v. Province of Bataan, represented by its Provincial Governor, Antonio Roma, et al., G.R. No. 173829, 10 June 2013
- [35] Republic of the Philippines, et al. v. City of Kidapawan, et al., G.R. No. 166651, 09 December 2005
- [36] Record, p. 21
- [37] Id.
- [38] Cf. Jose Teofilo Mercado v. Valley Mountain Mines Exploration Inc., G.R. No. 141019, 23 November 2011
- [39] Record, p. 20
- [40] Id. at 18
- [41] Id. at 19
- [42] Spouses Amancio and Luisa Sarmiento, et al. v. The Hon. Court of Appeals, et al., *supra*
- [43] Spouses Ramon and Rosita Tan v. Gorgonia Bantegui, etc., et al., G.R. No. 154027, 24 October 2005
- [44] Id.

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