

ANTONIO C. ARAGON, PETITIONER AND APPELLANT, VS. MARCOS JORGE, PROVINCIAL TREASURER OF ZAMBALES, RESPONDENT AND APPELLEE.

G.R. No. L-2678. December 29, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

This is an appeal from a judgment of the Court of First Instance of Zambales denying appellant's petition for mandamus to compel the respondent provincial treasurer to issue final bills of sale covering numerous parcels of land situated in the municipalities of Santa Cruz and Candelaria, Zambales, which the petitioner alleged to have purchased at auction sales made by the respective municipal treasurers of said municipalities for tax delinquencies and which had not been redeemed by the owners within one year.

The provincial treasurer, supported by an opinion of the provincial fiscal, held the sales void for irregularities and refused to issue the final bills of sale, but in his answer he alleged that he had offered to refund the purchase price but that the petitioner thru his counsel refused to accept it.

The trial court sustained the opinion of the fiscal and the provincial treasurer.

The real properties located in the municipality of Santa Cruz were advertised for sale "at public auction to be held at the main entrance of the municipal building of said municipality from March 24, 1947, at 10 a.m. until all sold, to satisfy all taxes and penalties due thereon and the cost of the sale, pursuant to the provisions of section 35 of Commonwealth Act No. 470, subject to the conditions provided in section 36 of said Act." The sale did not take place on the date above fixed but on May 12, 13, 14, and 15, 1947, without a new advertisement and without a new notice to the owners concerned. On the dates last mentioned 253 parcels with an aggregate assessed value of P67,150 were sold for only P1,471.

The real properties located in the municipality of Candelaria were originally advertised for sale "at public auction to be held at the main entrance of the municipal building of said municipality from May 5, 1947, at 10 A.M. until all sold, to satisfy all taxes and penalties due thereon and the cost of sale, pursuant to the provisions of section 35 of Commonwealth Act No. 470, subject to the conditions provided in section 36 of said Act." Likewise the sale did not take place on the date above fixed but on June 12, 1947, without a new advertisement and without a new notice to the owners concerned. On said date 71 lots with an aggregate assessed value of P32,250 were sold for only P820.19.

It was not the petitioner who bid at both auction sales but one Pedro Porras; and it was not the latter who paid the purchase price but Public Defender Moises Ma. Buhain, who caused the official receipts to be issued in the name of the herein petitioner Antonio C. Aragon. The latter is a Manila resident who had no house and no interest of any kind in Zambales. Public Defender Buhain was the one who appeared in the trial court as counsel and attorney-in-fact of the petitioner. The trial court intimated that the petitioner was a dummy of the public defender, who as a public official was prohibited by section 579 of the Revised Administrative Code "from purchasing,

directly or indirectly, from the Government, any property sold by the Government for the nonpayment of any public tax. Any such purchase by a public official or employee shall be void."

While there is ground for suspicion that said provision of the Revised Administrative Code may have been violated, in the absence of a categorical finding by the trial court on that point we must decide this case on the alleged nullity of the sale for lack of notice. Notice of such sale to the delinquent taxpayers and landowners in particular and to the public in general is an essential and indispensable requirement of the law, the nonfulfilment of which vitiates and nullifies the sale. (Section 35, Commonwealth Act No. 470, known as the Assessment Law; *Cabrera vs. Provincial Treasurer of Tayabas*, 42 O.G. 1492.)^[1]

The sale should have been made on a fixed date as originally advertised, or if that was not practicable and if it was desired to postpone the sale indefinitely "to give a chance to the taxpayers to pay their delinquent taxes," as was done in this case, new notices to the taxpayers and to the public should have been made.

The sales in question being void for lack of due notice, the respondent provincial treasurer cannot be compelled to issue the final bills of sale demanded by the petitioner.

The judgment is affirmed, with costs against the appellants.

Moran, C.J., Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

[1] 75 Phil., 780.

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