

**THE DIRECTOR OF LANDS PLAINTIFF-APPELLEE, VS. ZACARIAS LIM, ET AL., DEFENDANTS, ZACARIAS LIM, DEFENDANT-APPELLANT.***G.R. No. L-4372. April 30, 1952*

Ponente: PARAS, C.J.

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**PARAS, C.J.:**

This case involves a tract of land of some 517 hectares, situated in the barrios of Bioso and Ibarra, municipality of Zumarraga, province of Samar. On December 23, 1927, the land was declared for taxation by A. Gabler-Gumbert who thereupon filed an application in court for its registration. The Director of Lands filed an opposition on the ground that the land sought to be registered was public land.

On September 18, 1930, A. Gabler-Gumbert, on behalf of the Buad Development Company, Inc., filed an application with the Bureau of Lands for the purchase of the same land. On July 7, 1932, the Director of Lands approved the application and awarded the land for the price of P20.00 per hectare, or P10,341.00 for the whole tract. The corporation paid in cash the sum of P1,050.00, and the balance of P9,291.11 was to be paid either in full or in not more than ten annual instalments, any amount remaining unpaid to bear interest at per annum.

On October 27, 1932, A. Gabler-Gumbert filed a motion to dismiss his application for registration, which the court granted on November 1, 1932.

In view of the failure of the Buad Development Company, Inc. to pay the first and second instalments of the purchase price called for in the award of July 7, 1932, the Director of Lands, on April 29, 1935, cancelled said award. As A. Gabler-Gumbert had failed to pay the land taxes for the years 1938 and 1939, the land in question was sold at public auction by the provincial treasurer of Samar on March 24, 1941, for tax delinquency, and a final deed of sale was executed in favor of the purchaser, Zacarias Lim, on March 31, 1942. On January 5, 1946, the Director of Lands brought the present action in the Court of First Instance of Samar against Zacarias Lim and the provincial treasurer to recover the land. After trial, the court rendered a decision in favor of the Director of Lands, declaring the land to have reverted to and as forming part of the mass of public domain, under the control, administration and disposition of the Director of lands, and ordering the defendants to vacate the premises. From this decision the defendant, Zacarias Lim, appealed.

There can be no question about the propriety or validity of the cancellation made by the Director of Lands of the award of the land in question in favor of the Buad Development Company, Inc., by reason of the latter's failure to pay the first and second instalments at the purchase price. The only contention put up by the appellant is that the provincial treasurer of Samar was not empowered to sell the land at public auction for 1938 and 1939 tax delinquency on the part of A. Gabler-Gumbert, who had declared it for taxation purposes in the year 1927. The appellant proceeds to argue that the cancellation made by the Director of lands on April 29, 1935, did not automatically revert the land to the public domain, a judicial action being necessary for said reversion.

Appellant's contentions are not meritorious. After the sale in favor of the Buad Development Company, Inc., of which A. Gabler-Gumbert was the president, had been cancelled,—and no attempt has ever been made by said

corporation to question the validity of the cancellation,—A. Gabler-Gumbert, president of the Buad Development Company, Inc., was no longer legally bound to pay any real estate tax on the property covered by the sales application, and therefore his failure to pay said tax could not amount to a delinquency that warranted the sale of the land by the provincial treasurer. Assuming that actual reversion to the public domain can take place only after a judicial pronouncement, this point is immaterial, as the Buad Development Company, Inc., after the award in its favor was cancelled by the Director of Lands on April 29, 1935, had ceased to have any right under said award which could have given rise to the obligation of paying the real estate tax on the land.

It is true that under section 113 of Act No. 2874, all lands granted thereunder and the improvements thereon, except homesteads, are, even if the title remains in the government, subject to the ordinary taxes which shall be paid by the grantee beginning with the year next following the one in which the application or concession has been approved or the contract signed, as the case may be. This provision should be interpreted, however, only in the sense that the grantee is required to pay the ordinary taxes as long as the application or concession subsists and before it is cancelled.

A. Gebler-Gumbert personally cannot be said to have any title or right to the property, since it is an admitted fact that he had abandoned his application for its registration, by filing a motion to dismiss which was duly granted by the court.

The appellant advances the proposition that under the provisions of Act No. 82, real property cannot be sold for delinquency in the payment of taxes without first exhausting the personal properties of the delinquent taxpayer, whereas, under section 30 of Commonwealth Act No. 470, which took effect on January 11, 1940, the real property tax is charged directly and Independently upon the land, and that distraint of personal property of the taxpayer is merely optional. From this proposition the appellant draws the conclusion that under Act No. 470, the sale at public auction of delinquent properties is in rem, and the purchaser at such sale acquires a new and absolute title to the land purchased. In other words, the appellant believes that a purchaser at a public sale of property for tax delinquency acquires not only the title that the delinquent taxpayer may have, but a new title directly acquired from the State. The contention is untenable, it appearing that section 30 of Commonwealth Act 470 provides that if the delinquency in the payment of the real property tax has occurred, payment of such tax may be enforced by distraining the personal property of the delinquent taxpayer. We are of the opinion that, inasmuch as tax laws, specially those that deprive the taxpayer of his property by summary procedure, should be construed in favor of a taxpayer (Crawford, Statutory Construction, pp. 502-504), who may therefore claim the previous exhaustion of his personal properties, there is no substantial difference between the provisions of Commonwealth Act No. 470 and Act No. 82, with the result that the ruling in the case of *Government vs. Adriano*, 41 Phil. 117, to the effect that a purchaser can not claim any better title than that of his predecessor, is applicable to the case at bar.

The appellant also intimates that the Director of Lands or his representative had failed to set up any claim to the land in spite of the notice of distraint proceedings required by sections 28 and 35 of Commonwealth Act No. 470. The reply is that no laches may be imputed to the State as a matter of public policy. (*Government of the Philippine Islands vs. Monte de Piedad*, 35 Phil. 728.)

It is also urged for the appellant that the Director of Lands is not the proper party in interest, because under section 101 of Commonwealth Act No. 141, all actions for the reversion to the government of lands of the public domain or Improvements thereon, shall be Instituted by the Solicitor General or the officer acting in his stead, in behalf of the Republic of the Philippines. It is significant, however, that the complaint is mainly to annul the sale executed by the provincial treasurer of Samar to the appellant and to eject the latter from the land, the prayer for reversion being merely a necessary incident to the main action for annulment. The Director of Lands being the

officer in charge of the disposition and management of public lands (Section 4, Act 141), he is the proper party plaintiff.

Under the fourth assignment of error, the appellant argues that he is at least entitled to the return of the amount paid by him for the land in question under the sale at public auction. In the case of *Government vs. Adriano*, supra, a similar contention was sustained, and the Solicitor General has interposed no objection thereto.

Wherefore, it being understood that the appellant, Zacarias Lim, is entitled to the return of the amount he had paid for the land in question by virtue of the sale executed by the provincial treasurer of Samar, the appealed judgment is affirmed, with costs against said appellant. So ordered.

Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

Jugo, Bautista, and Labrador, JJ., took no part.

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