

RESTITUTA V. VDA. DE GOR-DON,

G.R. No. L-37871. November 23, 1981

Ponente: TEEHANKEE, Acting C.J.

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TEEHANKEE, Acting C.J.:

The Court affirms the appealed decision finding the same to be in accordance with the applicable law. The appellate court correctly upheld the tax sale of the real properties at which respondent Rosario Duazo acquired the same and her ownership upon petitioner Restituta V. Vda. de Gordon's failure to redeem the same, having found the sale to have been conducted "under the direction and super-vision of the City Treasurer of Quezon City after the proper proce-dure and legal formalities had been duly accomplished."

The appellate court's decision under review held as fol-lows:

"The opposition [to respondent Duazo's peti-tion for consolidation of ownership] has not contro-verted by specific denials the material averments in the petition. Hence the material averments in the petition are deemed admitted. (Section 1, Rule 9, Revised Rules of Court)

"Moreover, the opposition has not raised the issue of irregularity in the public sale of the two par-cels of land in question. This defense is deemed waived. (Section 2, Rule 9, id.)

"The uncontested averments in the petition and the annex attached to said petition disclose that the two parcels of land in question were sold at pub-lic auction at the City Hall, Quezon City on Decem-ber 3, 1964 under the direction and supervision of the City Treasurer of Quezon City after the proper pro-cedures and legal formalities had been duly accom-plished; that the taxes against the two parcels of land in question for the years 1953 to 1963, inclusive, re-mained unpaid; that the City Treasurer of Quezon City, upon warrant of a certified copy of the record of such delinquency, advertised for sale the two par-cels of land in question to satisfy the taxes, penalties and costs for a period of thirty (30) days prior to the sale on December 3, 1964, by keeping a notice of sale posted at the main entrance on the City Hall and in a public and conspicuous place in the district where the same is located and by publication of said notice once a week for three (3) weeks in the "DAILY MIRROR", a newspaper of general circulation in Quezon City, the advertisement stating the amount of taxes and penalties due, time and place of sale, name of the taxpayer against whom the taxes are levied, approximate area, lot and block number, location by district, street and street number of the property; that at the public sale on De-cember 3, 1964, the two parcels of land in question were sold to [Duazo] for the amount of P10,500.00 representing the tax, penalty and costs; that the certificate of sale executed by the City Treasurer was duly registered on December 28, 1964 in the office of the Register of Deeds of Quezon City; that upon the failure of the registered owner to redeem the two parcels of land in question within the one year period prescribed by law, the City Treasurer of Quezon City executed on January 4, 1966 a final deed of sale of said lands and the im-provements thereon; and that said final deed of sale was also registered in the Office of the Regis-ter of Deeds of Quezon City on January 18, 1966.

"The principal issues to be resolved in this appeal are (1) whether the price is so grossly in-adequate as to justify the setting aside of the public sale and (2) whether the oppositor [Gordon] is en-titled to redeem the two parcels of land in question.

"The combined assessed value of the two parcels of land is P16,800.00. The price paid at the public sale is P10,500.00. The residential house on the land is assessed at P45,580.00. But the assessment was made in 1961. The present value of the residential house must be much less now considering the depreciation for over ten years.

"While the price of P10,500.00 is less than the total assessed value of the land and the improvement thereon, said price cannot be considered so grossly inadequate as to be shocking to the conscience of the court.

"In *Director of Lands vs. Abarca*, 61 Phil. 70, cited by the lower court in the order appealed from, the Supreme Court considered the price of P877.25 as so inadequate to shock the conscience of the court because the assessed value of the property in question was P60,000.00. The assessed value of the land was more than sixty times the price paid at the auction sale.

"In the case at bar, the price of P10,500.00 is about one sixth of the total assessed value of the two parcels of land in question and the residential house thereon. The finding of the lower court that the house and land in question have a fair market value of not less than P200,000.00 has no factual basis. It cannot be said, therefore, that the price of P10,500.00 is so inadequate as to be shocking to the conscience of the court.

"Mere inadequacy of the price alone is not sufficient ground to annul the public sale. (*Barrozo vs. Macaraeg*, 83 Phil. 378)

"Moreover, in *Velasquez vs. Coronel*, 5 SCRA 985, 988, the Supreme Court has held:

'It is true that respondent treasurer now claims that the prices for which the lands were sold are unconscionable considering the wide divergence between their assessed values and the amounts for which they had been actually sold. However, while in ordinary sales for reasons of equity a transaction may be invalidated on the ground of inadequacy of price, or when such inadequacy shocks one's conscience as to justify the courts to interfere, such does not follow when the law gives to the owner the right to redeem, as when a sale is made at public auction, upon the theory that the lesser the price the easier it is for the owner to effect the redemption. And so it was aptly said: 'When there is the right to redeem, inadequacy of price should not be material, because the judgment debtor may reacquire the property or also sell his right to redeem and thus recover the loss he claims to have suffered by reason of the price obtained at the auction sale.' (Italics copied).

"The contention that the oppositor can still redeem the two parcels of land in question because the public sale has not been judicially confirmed deserves scant consideration. The cases cited by the oppositor and by the lower court all refer to foreclosure of mortgage sales which are by express provision of law subject to judicial confirmation. The public sale in the instant case is governed by Section 40 of Commonwealth Act No. 470 which gives the delinquent taxpayer a period of one year from the date of the sale within which to repurchase the property sold. In case the delinquent taxpayer does not repurchase the property sold within the period of one year from the date of the sale, it becomes a mandatory duty of the provincial treasurer to issue in favor of the purchaser a final deed of sale. (*Velasquez vs. Coronel*, supra) We find that the oppositor is not entitled to repurchase the two parcels of land in question because she failed to do so within one year from the date of the sale thereof.

"WHEREFORE, the order appealed from is hereby reversed and the ownership of [Duazo] over the two parcels of land in question and the improvements thereon is declared consolidated. The Register of Deeds of Quezon City is hereby ordered to cancel Transfer Certificates of Title Nos. 12204 and 12205 and to issue the corresponding transfer certificates of title to [Duazo] over the two parcels of land in question, upon the payment of the prescribed fees. No pronouncement as to costs."[3]

The Court finds petitioner's assignment of errors to be without merit.

Petitioner's first assignment of error as to alleged lack of personal notice of the tax sale is negated by her own

averments in her own opposition filed in the court a quo that "(T)he Oppositor in the above entitled petition is a woman 80 years of age. She was not aware of the auction sale conducted by the City Treasurer of Quezon City on December 3, 1964 or if there was any notice sent to her, the same did not reach her or it must have escaped her mind considering her age. x x x." [4]

Petitioner's second assignment of error that the period for redemption should be the two-year period provided in Republic Act No. 1275 likewise has no merit, since the specific law governing tax sales of properties in Quezon City is the Quezon City Charter, Commonwealth Act No. 502 which provides in section 31 thereof for a one-year redemption period. The special law covering Quezon City necessarily prevails over the general law. Furthermore, as respondent has pointed out, as of the time of filing in 1974 of respondent's brief, petitioner had not then for a period of 10 years (and 17 years as of now) sought to exercise her alleged right of redemption or make an actual tender thereof, as follows:

"Moreover, even if we do concede, merely for the sake of argument, that the provisions of Rep. Act No. 1275 may be made applicable in this case which is certainly not and Petitioner should have been granted TWO (2) YEARS from date of the public sale, within which to exercise her right of redemption, yet since the sale of the questioned land to herein Respondent in that public auction in 1964, herein Petitioner never had shown any good faith in exercising her right of redemption. Since 1964 when the auction sale took place, up to the present, 1974, or a period of TEN (10) YEARS have already elapsed and yet herein Petitioner never made any tender of payments with either the Court of First Instance of Quezon City or the Court of Appeals, or the Supreme Court, at least to show her good faith.

"Furthermore, if herein Petitioner really believes in good faith, that [she] had still that right of redemption, then she should have paid the real estate taxes, but as the records will show, since 1964, Private Respondent Rosario Duazo is the one paying the real estate taxes of the lands in question." [5]

Petitioner's third and last assignment of error as to the alleged gross inadequacy of the purchase price must likewise fail. As the Court has held in *Velasquez vs. Coronel*, [6] alleged gross inadequacy of price is not material "when the law gives the owner the right to redeem as when a sale is made at public auction, upon the theory that the lesser the price the easier it is for the owner to effect the redemption." As the Court further stressed in the recent case of *Tajonera vs. Court of Appeals*, [7] the law governing tax sales for delinquent taxes may be "harsh and drastic, but it is a necessary means of insuring the prompt collection of taxes so essential to the life of the Government."

ACCORDINGLY, the appellate court's decision under review is hereby affirmed. Without costs.

Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Fernandez, J., no part.

[1] At the time of the filing of the petition in this Court on November 29, 1973, petitioner Restituta V. Vda. de Gordon had already died on November 1, 1970 as stated in the verification executed by Aurora M. Clarin de Paredes who alleged that she caused the filing of the petition "as beneficial owner of the properties" and that "(D)uring the lifetime of the petitioner [who is my foster mother], the properties under litigation were sold by petitioner to the under-signed in a Deed of Absolute Sale executed on July 16, 1962, duly notarized by Atty. Samuel M. Soriano, and entered in his notarial register as Doc. No. 110, Page No. 88, Book No. II, Series of 1962." Record, at page 13; note in brackets supplied.

[2] Second Division composed in 1973 of Concepcion Jr., Reyes, A. and Fernandez, ponente, JJ.

[3] Record, pages 18 to 23; notes in brackets supplied.

[4] Petitioner's brief, pages 5 - 6; see Record on Appeal, pp. 16 - 17.

[5] Respondent's brief, pp. 15-16.

[6] 5 SCRA 985, citing other cases.

[7] 103 SCRA 467, 475, citing *Paguio vs. Ruiz*, 93 Phil. 306 (1953).

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