

BRUNA PANTALEON, ET AL., PETITIONERS, VS. GREGORIA CATOPO SANTOS, ET AL., RESPONDENTS.*G. R. No. L-10289. July 31, 1957*

Ponente: LABRADOR, J.

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Appeal by certiorari from a decision of the Court of Appeals declaring the tax title of defendants-appellees to the property subject of the action null and void, and ordering them to pay plaintiffs-appellants the sum of P300.00 as attorney's fees;

The facts material to the case, as found by the Court of Appeals, are as follows:

"From the evidence adduced by the plaintiffs, it appears that the two parcels of land involved herein were registered under the Land Registration Act, in the names of the brothers Miguel Pantaleon and Florentina Pantaleon, as co-owners, up to the institution of this action. Florentina Pantaleon was the deceased parent of the plaintiffs. In 1918, Miguel Pantaleon executed in favor of the spouses Francisco Manang Cruz and Bruna Fantalcon a deed of sale of the "derecho, titulo y participacion que el condueno inscrito Miguel Pantaleon tiene sobre el terreno descmto en este certificado de titulo" (referring to O. C. T. Nos. 1380 and 1484). The other halves of the properties covered by these titles which pertained to Florentina Pantaleon and not disposed of by Miguel, were in the possession of the plaintiff up to the filing of this action. It appears that those halves were formerly in the possession of defendants Eruna Pantaleon, Demetria M. Cruz and Leonida M. Cruz, but in 1945, the plaintiffs were restored to the possession thereof upon demand from said Bruna, Demetria and Leonida, in consideration of the renun- ciation by the plaintiffs of their right to recover from them (defendants) the value of the produce of the undisposed portions and of the obligation undertaken by said defendants to pay all real property taxes thereon. This undertaking, however, was not complied with by the defendants and, in 1951, the two parcels of land, covered by O. C. T. Nos. 1380 and 1484, were sold in their entirety by the defendant Provincial Treasurer of Rizal, for alleged non-payment of P57.57, the taxes due thereon, and were bought by the defendant spouses Teodulo Carignra and Demetria Cruz for P540, they being the highest bidders at the public auction sale. One year thereafter, the veiidecs were given the final deeds of sale (Exhibit 8) 'which were annotated on the dorsum of the certificates of title. Plaintiffs allege that all these proceedings were not known to them and when later on they learned about them, they hurriedly engaged a lawyer to bring this action."

In the complaint plaintiffs allege that their undivided share in the two lots subject of the action was sold for non-payment of land taxes thereon through connivance between the defendants; that their share in the property was sold at public auction without the necessary public notice and without notice to them of any tax delinquency thereon, notwithstanding the fact that they were in actual physical occupation of the land before the sale. They, therefore, pray that the sale of their share in the lands in favor of the defendants be declared null and void and that they be paid damages. In their answer the defendants deny specifically most of the material allegations of the complaint and allege that the lands were sold at public auction after due notice of the delinquency, in accordance with the required procedure established by law that plaintiffs do not have any right to the property as they have

never claimed such right for the last 34 years and since 1918 when the properties were sold to Francisco Manang Cruz and Bruna Pantaleon. As the provincial treasurer of Rizal and the municipal treasurer of Teresa, Rizal were included as defendants, they also presented their answer denying the alleged failure to comply with the procedure established by law for the sale of delinquent properties. As special defenses they allege that the tax lien attached to the realty to whomsoever the land is sold or transferred, and the tax liability fall on them.

The Court of First Instance of Rizal, after trial, dismissed the action, holding that as the plaintiffs had not paid the taxes due, in spite of the fact that they were in possession of the property as co-owners since 1945, the remedy prayed for could not be granted them because they had slept on their rights. Against this decision, the case was appealed to the Court of Appeals, which reversed the judgment appealed from and rendered the decision already pointed out above.

In this Court, petitioners make seven assignments of error. It is not, however, necessary to consider all of them as the main contention in all is that the respondents are guilty of estoppel by laches because they have failed to declare the property in their names for a period of 35 years; that in spite of the fact that they have been in possession since 1941 up to 1952 they have not paid a centavo of the taxes due thereon. It is furthermore claimed that no notice of the delinquency of the tax of the property was made because the property was declared in the name of Francisco M. Cruz and not in their name, it being impossible that a person is not the declared owner of the property be notified of the delinquency.

There is no question that the whole land was assessed in the name of Francisco M. Cruz from the time he bought the one-half share of Miguel Pantaleon; that the delinquency for taxes was on the two parcels of land in question; designated as lots Nos. 3577 and 3579 of the cadastral survey of Antipolo, Rizal; that the delinquency was for seven years, from 1944 to 1951; that the heirs of the registered owner of one-half undivided share in the properties, Florentina. Pantaleon, are not included as declared owners of the property, the declared owner being Francisco M. Cruz alone; that Francisco M. Cruz was the only one notified of the proceedings for the sale of the property on the ground of delinquency in the payment of real estate taxes, and the heirs of Florentina Pantaleon were not notified; and that the petitioners Bruna Pantaleon, et al., were the purchasers of the said lots at the sale at public auction conducted by the officials of the municipality.

With the above facts in mind, the Question presented to us for determination is whether or not the plaintiffs, respondents herein, lost their title and interest in said undivided share because of the administrative proceedings for the sale of said lands in their entirety to the petitioners-appellants herein. The Court of Appeals resolved this question in part in the following manner:

"Appellants argue that in the supposition that the sale at public auction was regular, still the defendants-vendees did not acquire any right at said sale. The argument is not without merits. The right of Francisco M. Cruz over the land described in O. C. T. Nos. 1380 and 1484 was limited to the rights, title and participation of the registered co-owner Miguel Pantaleon. Only one-half of said properties corresponded to said Miguel Pantaleon. In the public auction, however, both parcels of land were sold in their entirety, although the certificates of gale stated that the vendee acquired only the rights and interests of Francisco M. Cruz. In other words, if Francisco M. Cruz became delinquent in the payment of real property taxes on his portion acquired from Miguel Pantaleon, then only his right can be sold to satisfy the delinquency. The interest of the appellants over the other half not disposed of in the deed in favor of Francisco M. Cruz cannot be prejudiced or adversely affected by the act of said Cms (Sec. 10, Rules 123, Rules of Court), and the title in a tax sale being a mere derivative one, the purchasers acquire only the apparent interest, whatever it is, of the tax delinquent (Gov't of the P. I. vs. Adriano, 41 Phil., 112). Defendants-vendees claim good faith and alleged that they bought an apparently good title without notice of anything calculated to impair it. It has been held, however, 'that a purchaser of delinquent property at a tax sale, is subject to the rule of caveat emptor and shall

suffer all defect of prior title * * *. There is no warranty by the State of the title to a land sold at a tax sale (Ramirez vs. Ilagan, supra). In the instant case, the annotation on the reverse Side of the O. C. T. Nos. 1380 and 1484 revealed that the rights of Francisco M. Cruz over the properties in question were not at all absolute in character. Therefore, the sale conducted by the defendant Provincial Treasurer did not convey the whole title to the defendants-vendees, because the alleged delinquent owners did not own all the properties sold at public auction. The purchaser could not claim any better title than its predecessors (Government vs. Adriano, supra)."

It is to be noted that Florentina Pantaleon, mother of the plaintiffs, is the registered owner of an undivided one-half share of the parcels of land in question and plaintiffs succeeded her as owners thereof. Francisco M. Cruz, under whose name both parcels of land were declared in their entirety, had acquired only the undivided one-half share of Miguel Pantaleon, and this limited nature of his right appears at the back of the certificates of title covering the said lands. Francisco M. Cruz is not, therefore, the owner of the other undivided one-half share, originally belonging to Florentina Pantaleon.

The question directly presented by the facts, therefore, is: Are the rights of a registered but undeclared owner of one-half of the property, affected by the administrative or tax delinquency proceeding against the registered owner of the other half of the property, who is the declared owner of the whole? The provisions of the Provincial Assessment Law in force at the time of the promulgation of the decision in Government of the P. I. vs. Adriano, 41 Phil. 112 (1920) are still in force. These provisions are now Sections 28 to 41 of Commonwealth Act No. 470 (June 16, 1939). In the case of Government of the P. I. vs. Adriano, supra, we held that the above provisions of the law for the sale of the land for non-payment of taxes establish a proceeding in personam, as the tax is not a charge on the land alone, and only the particular interest of the person to whom the land is assessed is sold. Thus it was said:

"The exact phraseology of the particular statute would seem to determine the doctrine applicable in each jurisdiction. The Philippine law on the subject of taxation, when this tax sale occurred, was found in the Municipal Code, Act No. 82 (sections 74-83), as amended by Act No. 1130. According to these provisions, in case of default in the payment of land taxes, the personal property of the delinquent was first seized. Taxes and penalties were thereafter enforceable against the realty and, if necessary, it could be sold to satisfy the public taxes assessed against it. In case the taxpayer did not redeem the land sold within one year from the date of the sale, the provincial treasurer, as grantor, executed a deed conveying the land to the purchaser free from all liens of any kind whatsoever.

"It is thus seen that there was no provision in the local law, such as is found in Iowa and other states, vesting in the purchaser 'all the title of the former owner as well as the State and County.' (See Hefner vs. Northwestern Mut. L. Ins. Co. [1887], 123 U.S., 747.) It is further seen that proceedings in the Philippines for the sale of land for the nonpayment of taxes were in personam. (Valencia vs. Jimenez and Fuster [1908], 11 Phil., 492). The tax was not a charge upon the land alone. The authorities were first required to hunt up the owner and to make the tax out of his personal property. Only the particular interest or title of the person to whom the land is assessed was sold. As a stream cannot rise higher than its source, so the purchaser could not claim any better title than his predecessors." (Government of the P. I. vs. Adriano, 41 Phil. 118-119).

That the proceedings for the sale of delinquent real estate under the Provincial Assessment Law are in personam can be inferred from a comparison thereof with the corresponding provisions of the Revised Charter of the City of Manila, Republic Act No. 409. Section 56 imposes a duty upon any person acquiring real estate or constructing thereon to prepare a declaration thereof, for purposes of assessment, and the assessment then made is made "valid and binding on all persons interested." Section 57 provides that if an owner fails to make a return or declaration and the assessor is unable to discover the owner, the latter shall nevertheless list the same for taxation, and charge the tax against the true owner, if known, and if unknown against an unknown owner. Section 58 requires the assessor to list and value property not already listed and charge against the owner thereof the taxes due and past

due. Section 68 provides that taxes and penalties assessed against realty shall constitute a lien thereon, superior to all others, thus:

"Sec. 68. Tax lien.—Taxes and penalties assessed againsts realty shall constitute a lien thereon, which shall be superior to all other liens, mortgages, or incumbrances of any kind whatsoever; shall be enforceable against the property whether in the possession of the delinquent or any of the tax and penalty. A lien upon real estate for taxes levied for each year shall attach on the first day of January of such year." (Republic Act No. 409.) Section 69 provides that advertisements for the sale of real estate shall be published in a newspaper of general circulation in the city. It also provides that it is not essential for the validity of the sale at public auction that distraint of personal property of the delinquent be proceeded with, the distraint being merely cumulative. Section 71 provides that the tax deed to be issued upon the sale conveys to the purchaser so much as has been sold, "free from all liens of any kind whatsoever."

The above indicated provisions of the Revised Charter of the City of Manila are not found or included in the Provincial Assessment Law. Had it been the intention of the law to make the proceedings for the sale of delinquent real estate in the provinces in rem, as in the City of Manila, the above provisions, which indicate that the proceedings bind the real estate and all the persons having an interest therein, whether notified or not of the proceedings, would have been inserted in the Provincial Assessment Law. Under the provisions as they are, the proceedings for the sale of real estate for delinquency in the provinces must be held to be in personam.

As the proceedings in the case at bar are not proceedings in rem, but merely in personam, it follows as a necessary consequence that the rights of the registered but undeclared owners were not affected by the proceedings in the sale for delinquency.

We find no merit in the claim of the defendants-petitioners that plaintiffs-respondents are guilty of estoppel by laches. Petitioners bought the property only in the year 1951, and the action of respondents was instituted in 1953, within a period of one year from the sale. Besides, the rule of caveat emptor applies to the purchaser at the sale. The purchasers should have gone to the

registry of the property to find out the real nature of the right of the declared owner, which right was the one being sold at auction, and had they done so they would have discovered that his right was only an undivided one-half share of the properties.

Having arrived at the above conclusions, it becomes unnecessary to consider the other points raised and upon which the decision of the Court of Appeals are also based. The decision appealed from is hereby affirmed, with costs against the petitioners.

Montemayor, Reyes, A., Bautista Angelo, Concepcion, Endencia and Felix, JJ., concur.
Paras, C. J., concurs in the result.

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