

MARINA V. TOLENTINO, PETITIONER-APPELLANT, VS. ROMARICO AGCAOILI, ET ALS., RESPONDENTS-APPELLEES.*G.R. Nos. L-4349, 4350 & 4351. May 28, 1952*

Ponente: BAUTISTA ANGELO, J.

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On August 12, 1950, Marina V. Tolentino filed in the Court of First Instance of Manila three separate petitions praying that pursuant to section 7S of the Land Registration Act, (a) the register of deeds for the city of Manila be ordered to cancel transfer certificates of title Nos. 21715, 22321, 20190 and 20591, and new titles be issued in her name with the annotation at the back thereof of a statement that certain remaining portions of the lands described therein still belong to the registered owners; (b) the owner's duplicates of said titles be surrendered by the respective owners on the date of the hearing of the petitions and in default thereof said duplicates be declared null and void; and (c) the notice of hearing of the said petitions be made by publication at the expense of the petitioner pursuant to section 113 of said Act for the reason that the whereabouts of the owners are unknown and they cannot be located in spite of diligent efforts made to that effect, on the ground that the properties therein described with the exception of certain small portions had been sold to her by the city treasurer of Manila for delinquency in the payment of land taxes due the city of Manila for the years 1945 to 1947, and that the registered owners had failed to redeem them before the expiration of one year as provided for by law.

On November 23, 1949, the court, after setting aside the order it had previously issued denying the petitions on the ground that the registered owners had not been furnished with copies thereof, issued an order setting the hearing of the petitions on January 21, 1950, and allowing the petitioner to notify the registered owners through publication in the Evening News, a newspaper of wide circulation in the City of Manila, and by posting the notice once a week, for three consecutive weeks, on the bulletin board of the City Hall of Manila and the Court of First Instance of Manila and on the premises where the properties are located, all at the expense of the petitioner.

On January 14, 1950, after the publication of the notice as above stated, petitioner filed an amended petition in one of the cases by including the name of one Filomeno Sta. Ana alleging therein that the lands described in transfer certificates of title Nos. 20690 and 20591 appear now in the name of said Filomeno Sta. Ana, who notwithstanding the sale made to him of said lands failed to notify thereof the city assessor within 60 days from the date of the sale as required by article 2484 of the Administrative Code. This amended petition was made in view of the written manifestation submitted to the court by the register of deeds for the city of Manila stating that said lands had already been transferred to the name of said Filomeno Sta. Ana and for that reason the titles issued in the name of their previous owners Andrea Tolentino and Santos de Asis had been cancelled.

After hearing and after petitioner had submitted oral and documentary evidence, the court denied the petitions on the ground that the properties in question were sold to petitioner for inadequate prices and that petitioner failed to register the certificates of sale made in her favor by the city treasurer of Manila in the office of the register of deeds in accordance with the provisions of section 77 of Act No. 496, and also because, the procedure relative to the sale of properties for delinquency in the payment of taxes be in personam, the registered owners had not been

personally notified of the petitions. From this order petitioner has appealed imputing four errors to the lower court.

One of the grounds on Which the lower court predicated its order denying the relief prayed for by petitioner is the fact that the prices paid by said petitioner for the lands in question are inadequate, and consequently, the sales are vitiated and cannot be registered. This is now alleged as error. We believe that the error is well taken because, as held by this Court in a recent case, "When there is the right to redeem, inadequacy of price should not be material, because the judgment debtor may reacquire the property or else sell his right to redeem and thus recover the loss he claims to have suffered by reason of the price obtained at the execution sale" (Juan S. Barrozo v. Marcelino T. Macaraeg, et al., G.R. No. L-1282, April 25, 1949).

The other ground considered by the lower court in its appealed order is the fact that the petitioner failed to register the certificates of sale covering the properties in question in the office of the Register of deeds for the city of Manila pursuant to section 77 of Act No. 496. Petitioner also assigns this as error alleging as reason that when she bought the properties in question the deeds executed by the city treasurer of Manila were merely provisional in character which safe were not ratified before a notary public and as such they could not have been registered in the office of the Register of deeds. Petitioner also contends that when the final deeds of sale of the properties in question were executed on May 4, 1949 by the City Treasurer the same could not be registered because the duplicate copies of the titles covering the same were in the possession of their respective owners whose whereabouts were unknown, and that when she filed the three petitions under consideration in the Court of First Instance of Manila, Fourth Branch, she furnished copies thereof to the office of the register of deeds, which enabled the latter to submit to the Court his written manifestation concerning one Filomeno Sta. Ana, and in her opinion the service of said copies to the office of the register of deeds constitutes a substantial compliance with the provisions of section 77 of Act No. 496.

Section 77 above referred to provides:

"Sec. 77. A lien of any description on registered land shall be enforced in the same manner as like liens upon unregistered land. Whenever registered land is sold on execution, or taken or sold for taxes or for any assessment, or to enforce a lien of any character, or for any costs and charges incident to such liens, any execution, or copy of execution, any officer's return, or any deed, demand, certificate or affidavit, or other instrument made in the course of proceedings to enforce such liens and required by law to be recorded in the registry of deeds in the case of unregistered land, shall be filed with the register of deed a for the province where the land lies and registered in the registration book and a memorandum made upon the proper certificate of title, in each case, as an adverse claim or incumbrance."

From the above quoted provision it appears that whenever a registered land is sold on execution, or taken or sold for taxes, or for any assessment to enforce a lien of any character, it is required that the officer's return, or the certificate, or affidavit, or other instrument made in the course of the proceedings which are required by law to be recorded, be filed with the register of deeds for the province where the land lies, be registered in the registry book and a memorandum thereof be made upon the proper certificate of title. This provision does not require that the document, to be registrable, be notarized. In fact it expressly permits an officer's return, or a certificate, or other instrument made in the course of the proceedings to be filed for registration. Of course, in effecting the registration the register of deeds does not have to issue a new certificate of title to the purchaser; it is enough that he make a memorandum entry on the corresponding certificate of title to afford constructive notice to all the world. This is necessary in order that the registered owner may be apprised of the annotation of the encumbrance and may take the necessary steps to protect his interest. He may choose either to abandon his property or redeem it within the period provided for by law. This requirement is fundamental because it is one of the safeguards that the law establishes in order that owners of land who may have failed to take note of the sale of their properties for

delinquency in the payment of taxes may be notified of the action taken in connection with their properties. The failure of petitioner to take this step vitiates fundamentally her petitions.

The claim of petitioner that when the final deeds of sale of the properties in question were executed by the city treasurer she could not register the same in the office of the register of deeds in view of the lack of the duplicate copies of the titles which were then in the possession of the respective owners whose whereabouts were unknown, is not well taken for, under section 72 of Act No. 496, the presentation of the owner's duplicate is not necessary in involuntary transactions for then the law charges the register of deeds with the duty of requiring the registered owner to produce the duplicate certificate within 24 hours and if this is not done, it enjoins him to report the matter to the court so that the latter may issue an order requiring the owner to produce the duplicate certificate. The presentation of the duplicate certificate is only necessary in voluntary transactions (Section 57, Act No. 496).

"Where presentation of owner's duplicate not necessary. - It is not necessary for the sheriff to present the owner's duplicate of the certificate of title when he file a notice of the attachment with the register of deeds, nor is it necessary for the purchaser at public auction of an attached property to present the owner's duplicate when he files his certificate of sale for registration." (National Bank v. Fernandez, 61 Phil. 448, 455).

The claim of petitioner that the service of copies of her petitions to the office of the register of deeds constitutes a substantial compliance with the provisions of section 77 of Act No. 496, is also untenable, it appearing that the petitions filed by petitioner in these proceedings are not among those enumerated in the Act which are required to be registered, nor does the service of a copy of a petition for registration constitute the registration required in said Act. "Escriche says that registration, in its juridical aspect, must be understood as the entry made in a book or public registry of deeds" (Po Sun Tun v. Price and Provincial Government of Leyte, 54 Phil. 192, 195).

Wherefore, the order appealed from is hereby affirmed, with costs against appellant.

Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Labrador, JJ., concur.

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