

**JOSE DEL CASTILLO, ANCILLARY ADMINISTRATOR OF THE
TESTATE ESTATE OF ISABEL SCHOBER JIMAS, PLAINTIFF AND
APPELLANT, VS. DELFIN S. SIAN, DEFENDANT AND APPELLEE,
TREASURER OF THE C...**

G.R. No. 11291. April 30, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The present controversy involves a parcel of land situated in Baguio City. It was sold to "Schober Brothers" by one Alfredo Mendoza. As a result of the sale, Transfer Certificate of Title No. 1555 was issued to "Schober Brothers."

The City Treasurer of Baguio assessed the land in the name of "Schober Brothers", and taxes thereon were paid up to the year 1948. The record shows that the taxes for 1947 and 1948 were paid by one J. B. Hoover, ancillary administrator of the estate of William J. Schober. As the 1949 tax was not paid within the time required by law, the city treasurer wrote the "Schober Brothers", care of Mr. Hoover, a letter dated October 25, 1949 advising it that the tax had not been paid. On March 20, 1950, the treasurer sent another letter to said firm, care of Mr. Hoover, advising that the land was being advertised for sale at public auction on April 3, 4, and 5, 1950. The tax remained unpaid and the city treasurer, on April 3, 1950, after publishing a notice of sale on March 4, 11, and 18, 1950 in the Philippines Herald and posting such notice as required by law, sold the land for P218.13 to Delfin S. Sian as the highest bidder.

The property was not redeemed within the one year period allowed by law for redemption, and the city treasurer executed a final deed of sale of the property. This was annotated on the back of Transfer Certificate of Title No. 1555 on file with the Register of Deeds of Baguio City. On April 13, 1951, the register of deeds required the "Schober Brothers" to surrender the owner's duplicate certificate in its possession, but apparently the request was unheeded. On April 17, 1951, Sian filed a petition with the Court of First Instance of Baguio in G.L.R.O. Record No. 211 praying for the cancellation of Transfer Certificate of Title No. 1555 and the issuance of a new one in his name. J. B. Hoover, in behalf of the "Schober Brothers", was notified of this proceeding by registered mail, but the notice was returned unclaimed. On May 3, 1951, the court issued an order granting the petition. Copy of the order was also sent by registered mail to Hoover, but the notice was likewise returned unclaimed. The order having become final, the register of deeds cancelled Transfer Certificate of Title No. 1555 and issued Certificate of Title No. 1575 in the name of Sian on the back of which an annotation was entered relative to a writ of attachment issued in Civil Case No. 53650 of the Court of First Instance of Manila, entitled Stanley L. Kidder vs. William J. Schober.

On July 1, 1949, Sian sold the land to Francisco Rodrigo and his wife for P21,000.00, but the latter did not deliver the entire purchase price, as they withheld P10,000.00 pending cancellation of the annotation of the attachment on the title, which Sian in due time undertook to secure from the court. This annotation was ordered cancelled

because it was shown that the record of the case wherein the writ was issued had not been reconstituted, the time limit set by law to do so having expired on June 7, 1951. So that when the Rodrigo spouses registered the land in their name, the new certificate issued to them (Transfer Certificate of Title No. 1701) did no longer carry any annotation of said writ of attachment. In said certificate of title, however, the register of deeds carried over the annotation which he had made on Transfer Certificate of Title No. 1575 to the effect that the title to Sian was issued in compliance with an order of the Court of First Instance of Baguio rendered in the registration case in accordance with Section 78 of Act 496, On November 28, 1953, the Rodrigo spouses sold the land to Jose Ma. Delgado for P25,000.00, and Transfer Certificate of Title No. 2441 was issued to the latter. This new title also carried over the annotation regarding the source of the title of Sian in connection with Section 78 of Act 496. And on February 7, 1955, that is, almost five years after the property was sold at public auction, this action was commenced by Jose del Castillo, in his capacity as ancillary administrator of the estate of Isabel Schober Jimas.

The complaint discloses the following facts: That Henry Schober and William Schober were the partners of a firm known as "Schober Brothers"; that following the death of Henry Schober in 1937, in an accounting suit brought by Stanley Kidder, in his capacity as ancillary administrator of Henry Schober, against William Schober, the land in question was adjudicated to William J. Schober; that William J. Schober died on October 21, 1942, leaving a will which was admitted to probate in Special Proceedings No. 71091, Court of First Instance of Manila; that by order of the court dated November 7, 1947, the residual estate of William Schober, which included the land in question, was delivered by the ancillary administrator, J. B. Hoover, to William Schober's widow and sole heir, Isabel J. Schober, and was duly receipted for by her on November 29, 1947; that Isabel Schober later on married one James A. Jimas; and that she died on April 27, 1953. Plaintiff prays, among other things, that the sale of the land in question at public auction be annulled; that Transfer Certificates of Titles Nos. 1575, 1701 and 2441 issued to defendants Sian, Rodrigo spouses, and Delgado, respectively, be cancelled and that a new one be issued to him in his capacity as ancillary administrator of the estate of Isabel Schober Jimas.

The lower court dismissed the complaint as against all defendants except the City Treasurer of Baguio. With respect to the later, the court said: "Since the City Treasurer of Baguio sold the whole parcel of land, rather than a portion, to answer for the small sum of P218.13, following this ruling, said sale at public auction was null and void. * * * The provisions of the Land Registration Law bar any recovery of the land irregularly sold at this tax sale. The remedy of plaintiff must, therefore, be limited to an action for damages, namely, the recovery of the market value of the land—and the one responsible for this is the City Treasurer of Baguio." The plaintiff as well as the city treasurer appealed on purely questions of law.

The issues posed in this appeal may be boiled down into two, to wit: (1) Is the sale at public auction conducted by the City Treasurer of Baguio of the land in question to Delfin S. Sian null and void as found by the trial court? and (2) Are defendants Delfin S. Sian, Rodrigo spouses, and Jose Ma. Delgado purchasers for value and in good faith?

The auction sale was undertaken by the City Treasurer of Baguio under the provisions of section 2571, first paragraph, of the Charter of the City of Baguio, which reads :

"Taxes and penalties assessed against 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 subsequent owner, and can only be removed by the payment of the tax and penalty. The lien for taxes shall attach to the real property from the first day of March of the year in which the taxes are due. In addition to the last-mentioned procedure, the city treasurer may, upon warrant of the certified record required in the last preceding section, on or after the first day of October following delinquency, advertise the real estate of the delinquent for sale, or much thereof as may be necessary to satisfy all public taxes upon said property as above, and costs sale, for a period of thirty days."

It would appear that the city treasurer may, upon the warrant of the certified record regarding delinquency of a taxpayer, advertise the real estate of the delinquent for sale, or so much thereof as may be necessary, to satisfy "all public taxes upon said property as above, and costs of sale." This provision was interpreted by the trial court as mandatory, following a ruling laid down by the Court of Appeals. We disagree. The law provides that the city treasurer may advertise the real estate of the delinquent for sale, or so much thereof as may be necessary, to satisfy the tax due, which clearly implies that it is merely directory in character. Of course, the city treasurer, being a responsible public official, is expected to use judiciously his judgment in determining the amount of the property that should be sold for the purpose, having in view the interest or the equities of the taxpayer whose property is involved in the sale, but once he has acted, he should be presumed to have acted in good faith unless the contrary is shown. No such showing was made in this case. On the contrary, the circumstances surrounding the same would appear to justify the action taken by the city treasurer for the property involved merely consists of one lot covered by one certificate of title.

It is true that the lot contains an area of 7,152 square meters, and its value may be much higher and greater than the price for which it was sold, but how could the city treasurer sell a portion of said lot to satisfy the unpaid tax unless he first undertakes its subdivision? We know that the proper party who should undertake such matter is the owner himself, and no one would venture to buy an undefined portion of real estate without knowing before hand what portion would correspond to him let alone the friction and trouble he might be involved in connection with the remaining ownership of the property. Cases there may be where the official in charge of selling a property may be shown to have acted in bad faith or with gross negligence as where the property is easily divisible, when it is composed of several lots or parcels, or where it consists of personal property, but each case should be decided according to its peculiar circumstances. The situation herein obtained is not one of them. It is therefore an error for the trial court to have declared the sale null and void on the mere failure of the city treasurer to sell a portion of the lots as provided for in the Charter.

The stipulation of facts submitted by the parties in this case states in part:

"50. That the letters of administration of the testate estate of William J. Schober, J. B. Hoover, Ancillary Administrator, in Civil Case No. 71091, together with the certified copy of the will of William J. Schober, the order of the Court probating the will, the order of the Court approving the project of partition, the order of the Court closing the testate estate of William J. Schober, and the document showing the payment of inheritance tax were not registered with the office of the Register of Deeds of Baguio, nor was the said office furnished with the copies thereof and there was no notice of any change of address by anybody in behalf of the new owner of the Office of the Register of Deeds and City Treasurer of Baguio.

"54. That the Office of the Register of Deeds was not furnished with the appointment of the ancillary-administrator of the Testate Estate of Isabel Schober Jimas, deceased, in Case No. 23298 of the Court of First Instance of Manila, made in accordance with the letter of the ancillary-administrator issued by the Clerk of Court, Court of First Instance of Manila dated: August 21, 1954, mentioned 'in Paragraph 36 of the Agreed Stipulation of Facts, and attached thereto as Annex 'X'.

"55. That the Office of the Register of Deeds was not either furnished with the appointment of John B. Hoover as administrator of the Testate Estate of William J. Schober, deceased, in Special Proceedings No. 71091 of the Court of First Instance of Manila; nor any document mentioned in paragraph 37, and attached thereto as Annexes 'Y' and 'Z' 38, as Annex 'AA'; 39, as Annexes 'BB' and 'BB-1'; 40 and 41, as Annex 'CC'; 42 as Annex 'DD'; 44, as Annexes 'FF', 'FF-1', 'FF-2', 'FF-3'; and 48, as Annex 'J' of the Agreed Stipulation of Facts, filed in the above-entitled case, nor copy of the decision rendered by the Court of First Instance of Manila in Civil Case No. 53650, entitled 'Stanley L. Kidder, Ancillary-administrator of the Estate of Henry Schober, deceased,

Plaintiff vs. William J. Schober, Defendant, as Annex 'EE', or the document regarding the reconstitution of the record of Civil Case No. 53650, as Annex 'FF', both mentioned in paragraphs 43 and 45 of the Agreed Stipulation of Facts' (pp. 178, 182-183,, Record on Appeal; *Italics ours*)

On the other hand, Sections 84 and 90 of Act 496, provide:

"Sec. 84 In all proceedings for partition or registered land, after the entry of the final judgment or decree of partition and the filing of the report of the committee or commissioners and final judgment thereon, a copy of the final judgment or decree, certified by the clerk of court rendering the same, shall be filed and registered; and thereupon, in case the land is set off to the owners in severalty, any owner shall be entitled to have his certificate entered to the share set off to him in severalty, and to receive an owner's duplicate thereof. * * *"

"Sec. 90. Before the executor or administrator of a deceased owner or registered land, or any estate or interest therein, shall deal with the same, he shall file in the office of the register of deeds a certified copy of his letters of administration, or, if there is a will, a certified copy of the same and of the letters testamentary, or of administration, with the will annexed, as the case may be, and shall produce the duplicate certificate of title, and thereupon the register of deeds shall enter upon the certificate and the duplicate certificate a memorandum thereof with a reference to the letters or will and letters by their file number, and the date of filing the same."

It is therefore required of an executor or administrator of a deceased owner of a registered land, as in the instant case, to file in the office of the register of deeds a certified copy of his letters of administration, or if there is a will, a certified copy of the same, in order that the register of deeds may enter upon the certificate of title a memorandum with reference to the proceedings. It is likewise required that a certified copy of the decree or order of the final distribution of the estate be filed with the same office in order that a new certificate of title may be issued to the heir to whom the property has been adjudicated. This is so in order to make of record the simple fact that there is a new owner of the property by virtue of a will and so that a new title may be issued in favor of the new owner. Had the above requirements been complied with either by the administrator of the estate of William J. Schober, or by the heir of his estate, his wife Isabel J. Schober, or by the administrator of her estate when she subsequently died, the present case would have been probably avoided. In that event, the city treasurer would then have known that the actual owner of the property was no longer the partnership "Schober Brothers", but the widow, and could have easily contacted her, or her representative, regarding the settlement of the assessment in question. But because these steps were never taken either by the administrator of the estate of William J. Schober, or by the widow, as a consequence, nothing regarding said proceedings appeared on the back of Transfer Certificate of Title No. 1555, except one concerning a litigation between one Kidder and the late William J. Schober, the record of which appears not to have been reconstituted.

At any rate, Delfin S. Sian, who purchased the property at public auction sale, appears to have taken the following precautionary measure: He obtained a certification from the Clerk of Court of the Court of First Instance of Manila having jurisdiction over the case, certifying to the effect that the record of the case wherein the writ of attachment was issued had not been reconstituted and that the time limit set by law for the reconstitution of said record had expired on June 7, 1951. This certification was attached as annex to the petition he filed for the cancellation of the annotation of that writ. This petition was ordered published and posted as required by law, and a copy thereof sent by registered mail to Stanley L. Kidder and William J. Schober. After the aforesaid publication and posting had been effected, the court issued an order directing the cancellation of the annotation of attachment in Sian's Transfer Certificate of Title No. 1555. It cannot, therefore, be said that Sian bought the property in bad faith, or with knowledge of any adverse encumbrance that may affect the validity of the sale.

With regard to the Rodrigo spouses, the following are also the precautionary measures taken by them. In the deed of sale executed by Sian in their favor, they included a warranty that Sian would answer for the writ of

attachment annotated on the back of his title. The purchase price was P21,000.00, but the spouses withheld the payment to Sian of the sum of P10,000.00 on condition that they will pay the same only after the cancellation of the annotation regarding the writ of attachment. On August 22, 1951, the court ordered the cancellation of said annotation, and immediately thereafter the spouses paid to Sian the balance of P10,000.00. When, therefore, said spouses registered their deed of purchase, the annotation of the attachment had already been cancelled, and so the new title issued in their name did not carry any annotation of encumbrance with the exception only of that which refers to the proceeding relative to the cancellation in compliance with Section 78 of Act No. 496. They can, therefore, be considered as bona fide purchasers for value.

Purchaser Jose M. Delgado is in a better position. He bought the property from the Rodrigo spouses for the sum of P25,000.00 when their title no longer carried any annotation regarding the writ of attachment. There is therefore no circumstance, nor reason, by which we can declare him to have acted in bad faith as claimed by plaintiff-appellant.

Plaintiff claims that because the property passed to Isabel S. Jimas prior to the tax sale, there was no title the "Schober Brothers" could transfer because they were no longer the property owners at the time of the sale, although the records do not show otherwise. He claims that the will is the operative act that alone transferred title of the land to Isabel J. Schober, invoking in support thereof the provisions of Section 50 of Act 496.

This contention is contrary not only to the provisions of said section, but to the constant jurisprudence established by this Court. Thus, this Court held in one case: "We hold that under the Torrens system, registration is the operative act that gives validity to the transfer or creates a lien upon the land (sections 50 and 51, Land Registration Act). A person dealing with registered land is not required to go behind the register to determine the condition of the property. He is only charged with notice of the burdens on the property which are noted on the face of the register or the certificate of title. To require him to do more is to defeat one of the primary objects of the Torrens system. A bona fide purchaser for value of such property at an auction sale acquires good title as against a prior transferee of the same property if such transfer was unrecorded at the time of the auction sale" (William H. Anderson & Co. vs. Garcia, 64 Phil., 506).[1]

Wherefore, the decision appealed from, insofar as the City Treasurer of Baguio is concerned, is reversed, affirming the same in all other respects. No costs.

Paras, C. J., Bengzon, Padilla, Montemayor, and Endencia, JJ., concur.
Concepcion, J., concurs in the result.

[1] Quimson vs. Suarez, 45 Phil., 901; Reynes vs. Barrera, 68 Phil, 656; Vargas vs. Tancioco, 67 Phil., 308.

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