

FLORENTINA J. TECHICO, PETITIONER AND APPELLEE, VS. AMALIA SERRANO, OPPOSITOR AND APPELLANT.*G.R. No. 12693. May 29, 1959*

Ponente: MONTEMAYOR, J.

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This is an appeal from the order of the Court of First Instance of Manila, dated August 11, 1956, ordering the Register of Deeds for the City of Manila to cancel the original of Transfer Certificate of Title No. 4178 and to deliver a new title to petitioner or her authorized representative, upon payment of proper registration fees, and from the order dated October 17, 1956, denying oppositor-appellant's motion for reconsideration.

This case was first elevated to the Court of Appeals; but in view of its finding that only questions of law were involved, it certified it to this Tribunal for further proceedings by virtue of resolution dated July 24, 1957.

The case was submitted for decision on a stipulation of facts and on the pleadings of the parties. Said facts as far as they are pertinent to the case may be narrated as follows:

The parcel of land, subject matter of the case and later referred to as the lot, is lot No. 18-A-8, Block No. 2814, with an area of 95.80 square meters, located at Bambang, Int., Tondo, Manila, under Assessment No. 1068. It was declared for taxation purposes in the name of Florencia O. Capote. However, the registered owner before the year 1941 was one Eusebio Valdez Tan Kee under Transfer Certificate of Title No. 56636. He conveyed the lot on October 31, 1941 under Transfer Certificate of Title No. 63121 to Hermogenes Pineda, who later transferred it to Dr. Andres Torres on December 20, 1946 under Transfer Certificate of Title No. 4178.

On December 29, 1947, for tax delinquency for the years 1945-1947, the City Treasurer of Manila, after the corresponding publication, sold the lot to Mena de Lara as the highest bidder, for the sum of P18.13. After more than one year, that is, on May 18, 1949, the City Treasurer issued a certificate of sale in her favor. The certificate of sale, however, was never presented for registration in the office of the register of deeds of Manila, nor any memorandum thereof made on the back of Transfer Certificate of Title No. 4178.

It should be stated in this connection that at the time of the tax sale made by the City Treasurer on December 29, 1947, the lot in question was registered in the office of the City Treasurer for tax purposes in the name of Florencia O. Capote and was registered in the office of the register of deeds in the name of Andres Torres.

In the meantime, on December 20, 1946, Andres Torres, the registered owner, executed an irrevocable power of attorney in favor of Hermogenes Pineda, the same person who sold him the same lot on the same date, December 20, 1946. Said power of attorney covered the lot in question as well as another parcel, Lot No. 18-A-7. The power of attorney was in consideration of the sum of P15,000.

On February 25, 1956, Andres Torres "in consideration of P1.00 and other valuable consideration, plus the consideration mentioned in the Irrevocable Power of Attorney executed by me dated December 20, 1946", executed a deed of conveyance of the same lot 18-A-8, in favor of Hermogenes Pineda and Mrs. Amalia Serrano,

said to be husband and wife. At that time the lot was assessed at P770 as per Tax Assessment No. 1195. The deed of conveyance stated that the total consideration of the transfer should be considered as P7,500 (1/2 of P15,000 mentioned in the Irrevocable Power of Attorney) plus P1.00 or P7,501. It would appear that Hermogenes Pineda was then already dead because Mrs. Amalia Serrano, one of the transferees, called herself a widow and appointed administratrix of the estate of the late Hermogenes Pineda in Special Proceedings No. 1078, Court of First Instance of Pampanga, and that she was accepting the deed of conveyance for herself and for the estate of Hermogenes Pineda.

However, the deed of conveyance presented with the office of the register of deeds of Manila could not be registered then because the owner's copy of the Transfer Certificate of Title could not be presented and so an adverse claim was caused to be registered in said office on March 16, 1956. Up to the time of the presentation of the stipulation of facts, the lot in question was still covered by Transfer Certificate of Title No. 4178, in the name of Andres Torres.

On February 22, 1956, Mrs. Serrano inquired from the register of deeds about any incumbrance or claim on the said lot and the register of deeds issued a certificate stating that the tax sale in favor of Mena de Lara had not been presented in his office for registration. On the same date, February 22, 1956, Mrs. Serrano was allowed by the City Treasurer to redeem the property in connection with the tax sale, by paying the sum of P20.85. She likewise paid to the Treasurer the land taxes for the years 1949-1955 in the sum of P85.33. On June 9, 1956, Mrs. Serrano also paid the City Treasurer the tax corresponding to the year 1956, in the sum of P11.55.

On February 1, 1956, the purchaser at the tax sale, Mena de Lara sold the lot to Florentine J. Teehico, the petitioner, for the sum of P1,500. The conveyance was duly registered in the office of the register of deeds in the City of Manila on February 24, 1956. In connection with this sale and the registration in the office of the register of deeds, the stipulation of facts contain the following:

"* * *. As reflected from the documentary exhibit attached to the records we submit that the petitioner is a purchaser in good faith, not direct from the City Treasurer but from a third party who acquired the same property by virtue of an auction sale conducted in accordance with law."

On the basis of the deed of sale made in her favor, petitioner Teehico, on March 12, 1956, filed a petition with the trial court asking that Transfer Certificate of Title No. 4178-T295 in the register of deeds for the City of Manila covering the lot be ordered cancelled and a new certificate of title be issued in her name upon previous payment of the corresponding fees. The petition was opposed by Mrs. Amalia Serrano for her self and on behalf of the estate of Hermogenes Pineda. After hearing, as already stated, the trial court granted the petition. The reason given by the trial court in support of its order granting the petition is that after the execution of the final deed of sale by the City Treasurer which was more than one year after the tax sale was made on December 29, 1947, all rights to redeem the property have become unenforceable.

"* * * The contention of the oppositor that the certificate of sale was not registered and for that reason the one year period did not commence to run holds true, following the case of Metropolitan Water District vs. Reyes, 74 Phil., 142-150, cited by the counsel for the oppositor and the case of Tolentino vs. Agcaoili, 6. ft. Nos. L-4349, 4350 and 4351. But this doctrine in these two cases seems to have been abandoned in the case of Paguio vs. Rosado, 93 Phil., 306. * * *"

The trial court added:

"Considering that the case of Paguio vs. Rosado and the case at bar are substantially the same; that the taxes for the property in question for the years 1948-1955 are immaterial to the case at bar; that the deed of sale of Mena vs. de Lara in favor of the herein petitioner was executed on February 1, 1956, and presented for

registration on February 24, 1956, and that the deed of sale executed by Dr. Andres Torres in favor of Hermogenes Pineda and Mrs. Amalia Serrano was made only on February 25, 1956, the opposition is hereby denied."

In view of our decision in the case of *Leon C. Santos vs. Rehabilitation Finance Corporation*, 101 Phil., 980, we deem an extended discussion of the case unnecessary. In said case which is very similar to the one before us, involving the same question of when the one year period of redemption commences to run, reiterating the ruling laid down in the cases of *Metropolitan Water District vs. Aurelio Reyes*, 74 Phil., 143, and *Tolentino vs. Agcaoili*, G. R. Nos. L-4349-4351, May 28, 1952, we held that the period of redemption commences to run not from the date of the auction of tax sale but from the day the sale was registered in the office of the Register of Deeds. In said case we expressly said that the cases of *Valbuena* and *Paguio* were not applicable because they did not involve the question of when the period of redemption starts to run. We quote the pertinent portion of said decision:

"Petitioner-appellant contends that the *Metropolitan Water District* case as well as the case of *Marina V. Tolentino vs. Romarico Agcaoili*, G. R. Nos. L-4349-51, cited by the trial court, are not applicable; that what are controlling are those of *Mercedes Valbuena et al. vs. Aurelio Reyes et al.*, G. R. No. 48177, September 30, 1949, and *Lourdes T. Paguio vs. Maria Rosado de Ruiz*, 93 Phil., 306. We disagree. In the two cases of *Valbuena* and *Paguio* the only question involved therein was the validity of the tax sale made by the City Treasurer of Manila for tax delinquency. There we held that it was not necessary for the City Treasurer to give personal notice of the tax sale and that publication of the notice of the sale was sufficient. The question of the period of redemption and when it should begin to run was not discussed. On the other hand, we agree with the trial court that the case of *Metropolitan Water District* and *Tolentino* are applicable. In the *Tolentino* case, which also involved the non-registration of the certificate of sale, this Court went further and extended the doctrine laid down in the *Metropolitan Water District* case by saying, after citing Section 77 of Act No. 496, the following:

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 makes 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 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 petition.

"In those two cases, specifically in the *Tolentino* case, we held that the period of redemption of one year should start from the date of the registration of the certificate of sale or the final deed of sale in favor of the purchaser, so that the delinquent registered owners or third parties interested in the redemption may know that the delinquent property had been sold, and that they had one year from said constructive notice of the sale by means of registration within which to redeem the property, if they wished to do so.

"In further support of this doctrine of the necessity of registering auction sales, we have the case of *Philippine Executive Commission vs. Abadilla*, 74 Phil. 68, wherein this Court held that as regards registered land sold at

public auction in execution of a judgment, the registered owners may redeem the land so sold within one year, not from the date of the auction sale of which they had no notice, but from the date the sale was registered." Leon C. Santos vs. Rehabilitation Finance Corporation, *supra*.

It is therefore clear that in the present case the one year period of redemption commenced to run on February 24, 1956 when petitioner Teehico registered the conveyance in her favor by Mena de Lara in the office of the register of deeds. It cannot be the date of registration of the tax sale for the reason that, as already stated, said tax sale or rather the certificate issued by the City Treasurer to Mena de Lara was never presented at the office of the register of deeds for registration. It is equally clear that inasmuch as Serrano redeemed the lot on February 22 or 24, 1956, the redemption was made well within the period provided by law. In this connection, it should be stated that the sale made by Mrs. Mena de Lara to petitioner Techico was naturally subject to this right of redemption. Consequently, as a result of said redemption, petitioner lost all right and title which her vendor may have tried to convey to her. In other words, her petition before the trial court was without any right or basis, and so the trial court erred in granting the same.

In view of the foregoing, the order appealed from is reversed, with costs.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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