EFREN AQUINO AND ANGELICA AQUINO, VS. QUEZON CITY, REPRESENTED BY ITS OIC, BRIGIDO SIMON, ANSELMO O. REGIS, VICENTE N. COLOYAN, AS THE ACTING REGISTER OF DEEDS OF QUEZON CITY, A...

G.R. NO. 137534. August 03, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

In an order issued by this Court dated October 18, 2000, two petitions for review on certiorari involving the decisions of the Court of Appeals in CA-G.R. CV Nos. 37487 and 49241, declaring valid the auction sales of two real properties by the Quezon City local government for failure to pay real property taxes, were consolidated for the Court's consideration.

G.R. No. 137534

The first case, docketed as G.R. No. 137534, deals with a 612-square meter lot in East Avenue Subdivision, Diliman, Quezon City. The lot was formerly owned by petitioner spouses Efren and Angelica Aquino (Petitioners Aquino) under Transfer Certificate of Title (TCT) No. 260878. By their own admission, Petitioners Aquino withheld payment of the real property taxes thereto from 1975 to 1982 as a form of protest against the government of then President Marcos. As a result of the nonpayment, the property was sold by the Quezon City local government, through the Treasurer's Office, at public auction on February 29, 1984 to private respondent Aida Linao, the highest bidder. Aida Linao eventually consolidated her ownership under a petition granted by the Regional Trial Court (RTC) of Quezon City on September 25, 1985.[1] Accordingly, TCT No. 260878 was cancelled and a new one was issued under TCT No. 339476 in the name of Aida Linao.[2]Petitioners Aquino claimed that they learned of the sale only in April 1987 after they were informed by people "squatting" on the property that Aida Linao was taking steps to eject them. They then filed an action for annulment of title, reconveyance and damages against respondents Quezon City local government, its Treasurer, the Register of Deeds of Quezon City and Aida Linao[3] before the RTC of Quezon City.[4] They charged that the Quezon City local government sold their property without informing them of their tax default, in derogation of the notice requirements of the law. They also impute bad faith upon Aida Linao in buying their property despite knowledge of the infirmities leading to the auction sale.

On February 25, 1995, after the parties presented their case, the RTC of Quezon City rendered a decision dismissing the complaint. The dismissal was later affirmed by the Court of Appeals on February 3, 1999.

In this petition, Petitioners Aquino raise two issues:

- Whether there was failure on the part of the Quezon City local government to satisfy the notice requirements before selling the property for tax delinquency; and

- Whether there was failure on the part of the Quezon City local government to give actual notice of the

impending sale despite knowing that the mailed notices were returned unclaimed.

- Whether or not Petitioners Aquino were estopped to question the absence of notice given their admission that they deliberately did not pay their taxes.

G.R. No. 138624

The second case, docketed as G.R. No. 138624, deals with a 407-square meter property located at No. 20 North Road, Cubao, Quezon City under TCT No. 21996 in the name of Solomon Torrado.[5] TCT No. 21996 covers two lots, Lots 7 & 8, but only the latter is the subject of the controversy. According to the Heirs of Solomon Torrado (Petitioner Heirs),[6] Solomon Torrado paid taxes on the improvements on Lot 8 for 1976, 1977, 1978, 1979, 1981 and 1982 but not on the lot itself because the Treasurer's Office could not locate the index card for that property. For failure to pay real property taxes on Lot 8 from 1976 to 1982, the City Treasurer sent a Notice of Intent to Sell dated October 6, 1982 to Solomon Torrado to his address indicated in the tax register, which simply states as "Butuan City." The notice was returned by reason of "Insufficient Address." Next sent was a Notice of Sale of Delinquent Property dated December 10, 1982. This was sent to the same address and similarly returned unclaimed.[7] Thereafter, a public auction for Lot 8 was held on February 23, 1983 and the lot was sold to Veronica Baluyot, the winning bidder. A Notice of Sold Property was subsequently sent to Solomon Torrado to "Butuan City," which was returned unclaimed.

On May 29, 1985, a Final Bill of Sale was executed by the City Treasurer. On that basis, TCT No. 21996 was cancelled in part and TCT No. 355133, covering Lot 8, was issued in the name of Veronica Baluyot. Veronica Baluyot later mortgaged the property to spouses Corazon and Maximino Uy. For failure to pay the mortgage debt, Lot 8 was foreclosed and TCT No. 355133 was cancelled and substituted with TCT No. 45536 in the name of spouses Uy. Spouses Uy then sold the lot to DNX Corporation and TCT No. 45536 was cancelled and substituted with TCT No. N-162170, in the name of DNX Corporation.

Meanwhile, on January 13, 1989, Solomon Torrado commenced an action with the RTC of Quezon City against the spouses Baluyot, the Quezon City local government, the City Treasurer and Register of Deeds.[8] On March 12, 1992, the RTC of Quezon City dismissed the action. Recourse to the Court of Appeals was made but on March 24, 1998, the appeal was dismissed.

Before this Court, Petitioner Heirs raise the following questions:

- In the auction sale of tax delinquent property, is constructive notice sufficient?

- Was the City Treasurer negligent in continuing to send notices to an "insufficient address" notwithstanding a tax declaration in the tax records pertaining to another property bearing Solomon Torrado's complete address?

- Was the auction sale conducted in accordance with P.D. 464?

- Was the title of Veronica Baluyot, the purchaser of the property, void as well as those of the subsequent transferees?

- Is DNX Corporation, the subsequent purchaser of the property, a buyer in good faith?

Issues common to both petitions

The Court will first discuss the issues that were raised in common by petitioners.

The first issue in common relates to the interpretation of the notice requirements under Sections 65 and 73 of Presidential Decree (P.D.) No. 464 (the Real Property Tax Code then in force):[9]

x x x

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> SECTION 65. Notice of delinquency in the payment of the real property tax. – Upon the real property tax or any installment thereof becoming delinquent, the provincial or city treasurer shall immediately cause notice of the fact to be posted at the main entrance of the provincial building and of all municipal buildings or municipal or city hall and in a public and conspicuous place in each barrio of the municipality of the province or city as the case may be. The notice of delinquency shall also be published once a week for three consecutive weeks, in a newspaper of general circulation in the province or city, if any there be, and announced by a crier at the market place for at least three market days.
>
> Such notice shall specify the date upon which tax became delinquent, and shall state that personal property may be seized to effect payment. It shall also state that, at any time, before the seizure of personal property, payment may be made with penalty in accordance with the next following section, and further, that unless the tax and penalties be paid before the expiration of the year for which the tax is due, or the tax shall have been judicially set aside, the entire delinquent real property will be sold at public auction, and that thereafter the full title to the property will be and remain with the purchaser, subject only to the right of delinquent taxpayer or any other person in his behalf to redeem the sold property within one year from the date of sale.
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> x x x
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> SECTION 73. Advertisement of sale of real property at public auction. – After the expiration of the year for which the tax is due, the provincial or city treasurer shall advertise the sale at public auction of the entire delinquent real property, except real property mentioned in subsection (a) of Section forty hereof, to satisfy all the taxes and penalties due and the costs of sale. Such advertisement shall be made by posting a notice for three consecutive weeks at the main entrance of the provincial building and of all municipal buildings in the province, or at the main entrance of the city or municipal hall in the case of cities, and in a public and conspicuous place in the barrio or district wherein the property is situated, in English, Spanish and the local dialect commonly used, and by announcement at least three market days at the market by crier, and, in the discretion of the provincial or city treasurer, by publication once a week for three consecutive weeks in a newspaper of general circulation published in the province or city.
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> The notice, publication, and announcement by crier shall state the amount of the taxes, penalties and costs of sale; the date, hour, and place of sale, the name of the taxpayer against whom the tax was assessed; and the kind or nature of property and, if land, its approximate areas, lot number, and location stating the street and block number, district or barrio, municipality and the province or city where the property to be sold is situated. Copy of the notice shall forthwith be sent either by registered mail or by messenger, or through the barrio captain, to the delinquent taxpayer, at his address as shown in the tax rolls or property tax record cards of the municipality or city where the property is located, or at his residence, if known to said treasurer or barrio captain: Provided, however, That a return of the proof of service under oath shall be filed by the person making the service with the provincial or city treasurer concerned.

Both petitioners construe the above-quoted provisions to mean that two sets of notices, one under Section 65 and the other under Section 73, are required before a delinquent property could be sold for failure to pay real property taxes. With respect to the first notice under Section 65, the owner of the real property subject to tax is supposed to be given a Notice of Tax Delinquency stating that if the property tax is not paid, the local government would sell the real property to satisfy the tax in arrears. This consists of four separate measures: 1) posting of the notice of tax delinquency at the main entrance of the city hall; 2) posting of the notice of tax delinquency in a public and conspicuous place in each barangay of the city; 3) publication of the notice of tax delinquency once a week for three consecutive weeks in a newspaper of general circulation in the city; and 4) verbal announcement of the existence of the notice of tax delinquency by a crier at the market place for at least three market days.

The second notice under Section 73 pertains to a Notice of Sale at Public Auction notifying the owner of the real property that since there was failure to heed the first notice, the local government would now be selling his

delinquent property at public auction on a specified date to satisfy the tax in arrears.

For Petitioners Aquino, while it seems the Quezon City local government complied with the second set of requirements in selling their lot, it failed to do the same with the first.[10] The only compliance by the Quezon City local government was the sending of a Notice of Intent to Sell by registered mail to the last known address of Petitioners Aquino. No posting or publication of any kind was done.

Petitioner Heirs, on the other hand, push for the same construction and claim that there was failure on the part of the City Treasurer to send Solomon Torrado a Notice of Delinquency at all.

Respondents, on the other hand, counter with their own interpretation of P.D. No. 464. Instead of a two-step notice requirement, respondents put forward the view that there are three methods of enforcement on tax delinquent real property provided under P.D. No. 464. The first method is by distraint of personal property under Sections 65, 68, 70, 71 and 72. The second method is by sale of the delinquent real property itself under Sections 73 to 81. The third method is by filing a case in court under Section 82. Respondents submit that the real property in issue was sold under the second method. That being the case, while they admit that there was only partial compliance with the provisions of Section 65[11] this would be relevant had the local government chosen the method of distraint of personal property. In this case, the Quezon City local government chose the second method of sale and there was full compliance with the provisions of Section 73. Hence, the auction sale was valid.

A simple application of the elementary rules of statutory construction provides a straightforward resolution to this conflict. Section 65 basically provides that upon delinquency of a real property tax, a notice of delinquency shall be given. This is followed by Section 66, penalty for delinquency, and Section 67, application of the remedies. The latter reads in its entirety as follows:

> SECTION 67. Remedies cumulative, simultaneous and unconditional. – Collection of the real property tax may be enforced through any or all of the remedies provided under this Code, and the use or non-use of one remedy shall not be a bar against the institution of the others. Formal demand for the payment of the delinquent taxes and penalties due need not be made before any of such remedies may be resorted to; notice of delinquency as required in Section sixty-five hereof shall be sufficient for the purpose.

Following Section 67 are provisions on distraint of personal property (Sections 68, 69, 70, 71 and 72), provisions concerning the sale of real property (Sections 73 to 81) and the provision on collection of real property tax through the courts (Section 82).

A rule of statutory construction is that a statute must be construed as a whole. The meaning of the law is not to be extracted from a single part, portion or section or from isolated words and phrases, clauses or sentences, but from a general consideration or view of the act as a whole. Every part of the statute must be interpreted with reference to the context.[12] In line with this rule, the Court finds that Section 65's notice of delinquency should be read in line with the Section 67's statement that the different tax remedies do not require a formal demand for the payment but may be substituted by the notice of delinquency. Reference to the notice of delinquency in relation to tax remedies, in general, illustrates the former's function as a prerequisite to all the individual tax remedies subsequently detailed. Also, the phrase "notice of delinquency as required in Section sixty-five" found on the last part of Section 67 further underscores its mandatory nature and interrelation to the three remedies.

It is incorrect for the respondents to claim that notice of delinquency has limited application only to distraint of personal property. They mistakenly lumped Section 65 exclusively with Sections 68 to 72 and, in so doing, restricted its application from the other tax remedies. Section 65 is to be construed together with Sections 66 and 78 and all three operate in reference to tax methods in general. Definitely, there is no more logical way to construe the whole chapter on "Collection of Real Property Tax" (Sections 56 to 85) than to stress that while three methods

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are provided to enforce collection on real property taxes, a notice of delinquency is a requirement regardless of the method or methods chosen.

Thus, while the Court agrees with the respondents' interpretation that there are three methods by which taxes may be enforced, petitioners are correct in insisting that two notices must be sent to the taxpayer concerned. Nevertheless, respondents still prevail because the Court is satisfied that the two-notice requirement has been complied with by the Treasurer's Office.

Contrary to the stand taken by Petitioners Aquino, despite the provisions of Section 65, the local government concerned need not post and publish the notice of delinquency, it being sufficient that personal service was done. In Talusan v. Tayag,[13] one of the issues raised was the lack of publication of the notice of delinquency. As to this issue the Court said, speaking through now Chief Justice Panganiban:

> Petitioners assert that the tax sale should be annulled because of noncompliance with the requirement of publication prescribed in Section 65 of PD 464.
>
> In this regard, we note that unlike land registration proceedings which are in rem, cases involving an auction sale of land for the collection of delinquent taxes are in personam. Thus, notice by publication, though sufficient in proceedings in rem, does not as a rule satisfy the requirement of proceedings in personam. As such, mere publication of the notice of delinquency would not suffice, considering that the procedure in tax sales is in personam. It was, therefore, still incumbent upon the city treasurer to send the notice of tax delinquency directly to the taxpayer in order to protect the interests of the latter.
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> In the present case, the notice of delinquency was sent by registered mail to the permanent address of the registered owner in Manila. In that notice, the city treasurer of Baguio City directed him to settle the charges immediately and to protect his interest in the property. Under the circumstances, we hold that the notice sent by registered mail adequately protected the rights of the taxpayer, who was the registered owner of the condominium unit.

Petitioners Aquino admit that notice of delinquency was mailed, hence, they cannot complain that their rights were not adequately protected. Publication and posting not being indispensable, there was proper compliance with Section 65.

Petitioner Heirs, on the other hand, made no such admission but, on the contrary, argued that no notice of delinquency was prepared by the City Treasurer much less sent to Solomon Torrado. The Court holds, for one, that this is a question of fact that will generally not be resolved on a petition for review.[14] Second, records bear out that a Notice of Intent to Sell dated October 6, 1982 was sent by the Treasurer's Office to Solomon Torrado. While this was not captioned as a "Notice of Delinquency," its contents sufficiently inform the recipient of the deficiency in real property taxes, and this notice is apart from the subsequent Notice of Sale sent immediately prior to the auction sale.

Hence, on the common issue concerning compliance with P.D. No. 464, the Court rules in favor of respondents.

The Court proceeds to the common issue of actual versus constructive notice of sale.

Petitioners Aquino argue that actual notice is required and, therefore, the mailing of the Notice of Sale to their last known address, which they had abandoned, did not constitute valid notice under the law. Petitioner Heirs likewise argue that constructive notice to the delinquent owner of the real property by mailing is not sufficient, especially when the local government concerned is aware that the mailed notices have not reached the owner.

The applicable provision in regard to this issue is found in the last paragraph of Section 73, quoted above. Under said provision, notices of the sale at public auction may be sent to the delinquent taxpayer, either (i) at the address

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as shown in the tax rolls or property tax record cards of the municipality or city where the property is located or (ii) at his residence, if known to such treasurer or barrio captain. Plainly, Section 73 gives the treasurer the option of where to send the notice of sale. In giving the treasurer the option, nowhere in the wordings is there an indication of a requirement that notice must actually be received by the intended recipient. Compliance by the treasurer is limited to strictly following the provisions of the statute: he may send it at the address of the delinquent taxpayer as shown in the tax rolls or tax records or to the residence if known by him or the barrio captain.

In both petitions, the City Treasurer opted to comply with the first option. Petitioners Aquino and Petitioner Heirs do not deny that notices were sent to their or their predecessor's address, as shown in the tax records. The named persons in the notices sent by City Treasurer were the correct delinquent taxpayers and were the registered owners of the property subject to tax, albeit the mailing addresses were not to their actual residences. Therefore, the prescribed procedure in auction sales of property for tax delinquency was followed punctiliously. Had the City Treasurer sent the notices to an address other than the one indicated in the tax records, and such address is not the residence known to the treasurer or barangay captain, or if sent to a person who is not the registered owner of the property, then the Court would be able to declare non-compliance with the law. But the fact that petitioners were not able to read their notices is of no consequence to the annulment of the auction sale.

Additionally, Petitioner Heirs maintain that the Treasurer's Office was already aware that Solomon Torrado's address stated in the tax records as "Butuan City" was insufficient so that the notices could not possibly be sufficient for the notices to reach the recipient. There was however a more complete address indicated in the tax records for the improvements to Lot 8, which was No. 20 North Road, Cubao, Quezon City. Petitioner Heirs argue that the City Treasurer could have used this address instead of repeatedly sending notice to an insufficient address which for certain would be returned unclaimed.

The fault herein lies with Solomon Torrado and not with the City Treasurer. Solomon Torrado's use in his tax declarations for Lot 8, as well as in TCT No. 21996, the minimal address of "Butuan City," is further compounded by the fact that he can no longer be found in Butuan City as he had moved to Quezon City since 1959.[15] He, therefore, had more than 25 years, or 25 opportunities, to amend his address and provide the City Treasurer of a more complete and reliable one. By neglecting to do so, he was aware of the chances he was taking should notices be sent to him by the Treasurer's Office. Instead, he maintained the terse address of "Butuan City."

In contrast, the Treasurer's Office cannot be faulted for not sending the notices to Solomon Torrado's address at No. 20 North Road, Cubao, Quezon City, which was indicated in his tax declarations to his other properties. As discussed, the last paragraph of Section 73 instructs the treasurer on where to send the notice of sale: either at the address as shown in the tax rolls or property tax record cards of the municipality or city where the property is located or at his residence, if known to such treasurer or barrio captain. Petitioner Heirs have not shown that the City Treasurer or barrio captain actually knew that Solomon Torrado's residence was No. 20 North Road, Cubao, Quezon City. Therefore, the City Treasurer could not be blamed for having mailed the notices to the address shown in the tax records, which was in conformity with Section 73.

In disposing of these two issues, there is no further need to discuss the issues of estoppel and good faith.

WHEREFORE, both petitions are DENIED and the decisions of the Court of Appeals in CA-G.R. CV Nos. 37487 and 49241 are AFFIRMED. No costs.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona and Garcia, JJ., concur.

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[1] LRC Case No. 3160 (85).

[2] Married to Pete Linao.

[3] Accompanied by her husband, Pete Linao.

[4] Civil Case No. Q-51130.

[5] Solomon Torrado is now deceased and is represented in this petition by his heirs, petitioners in G.R. No. 138624.

[6] Taken from the decision of the Court of Appeals in CA-G.R. CV No. 37487.

[7] In addition to the mailing, the notices of sale were posted, published in a newspaper of general circulation and announced by criers in the marketplace. Likewise, the Barangay Captain of the barangay where the property was located was informed of the auction sale.

[8] Civil Case No. Q-89-1563.

[9] Now Sections 197 to 283 of the Local Government Code of 1991.

[10] Petitioners' Memorandum, Rollo, p. 205.

[11] Respondent's Memorandum in G.R. No. 137534, Rollo, p. 240.

[12] Aisporna v. Court of Appeals, No. L-39419, April 12, 1982, 113 SCRA 459.

[13] G.R. No. 133698, April 4, 2001, 356 SCRA 263, 276-277.

[14] Id. at 275.

[15] G.R. No. 138624, Rollo, p. 18.

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