

**SPOUSES AMANCIO AND LUISA SARMIENTO AND PEDRO OGSINER,
PETITIONERS, VS. THE HON. COURT OF APPEALS (SPECIAL FORMER
FIFTH DIVISION), RODEANNA REALTY CORPORATION, THE HEIRS
OF CARL...**

G.R. NO. 152627. September 16, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.

In a case for recovery of possession based on ownership (accion reivindicatoria), is the defendant's third-party complaint for cancellation of plaintiff's title a collateral attack on such title?

This is the primary issue that requires resolution in this petition for review on certiorari of the Decision[1] of the Court of Appeals dated 27 November 2001 and its Resolution[2] dated 08 March 2002 affirming the Decision of the Regional Trial Court (RTC) of Pasig, Branch 162, in Civil Case No. 54151, finding for then plaintiff (private respondent herein) Rodeanna Realty Corporation (RRC).

The relevant antecedents of this case have been summarized by the Court of Appeals as follows:

The subject of the present controversy is a parcel of land situated in Marikina covered by Transfer Certificate of Title No. N-119631 and registered in the name of the plaintiff-appellee RODEANNA REALTY CORPORATION.

The aforementioned land was previously owned by the Sarmiento spouses by virtue of a deed of absolute sale executed on July 17, 1972 and as evidenced by a Transfer Certificate of Title No. 3700807. Upon acquisition of the land, the Sarmiento spouses appointed PEDRO OGSINER as their overseer.

On August 15, 1972, the subject land was mortgaged by the Sarmiento spouses to Carlos Moran Sison (Mr. Sison) as a security for a sixty-five thousand three hundred seventy pesos and 25/100 loan obtained by the Sarmiento spouses from Mr. Sison.

Upon failure of the Sarmiento spouses to pay the loan, Mr. Sison initiated the extra-judicial foreclosure sale of the mortgaged property, and on October 20, 1977, the said property was foreclosed through the Office of the Sheriff of Rizal, which accordingly, issued a certificate of sale in favor of Mr. Sison, and which Mr. Sison caused to be annotated on the title of Sarmiento spouses on January 31, 1978.

On August 25, 1982, JOSE PUZON (Mr. Puzon) purchased the same property in an auction sale conducted by the Municipal Treasurer of Marikina for non-payment of taxes. After paying P3,400.00, he was issued a certificate of sale and caused it to be registered in the Registry of Deeds of Marikina. No redemption having been made by the Sarmiento spouses, a final bill of sale was issued in his (Mr. Puzon) favor. Thereafter, Mr. Puzon filed a petition for consolidation of ownership and issuance of new title over the subject property before the Regional Trial Court of Pasig, Branch 155. The said petition, which was docketed as LRC Case No. T-3367, was granted by the court in its Order dated August 03, 1984. Thereafter, Transfer Certificate of Title No. 102902 was issued in the name of Jose Puzon.

On August 16, 1986, Mr. Puzon sold the property in question to herein plaintiff-appellee. By virtue of such sale, a transfer certificate of title over the subject property was issued in favor of the plaintiff-appellee. Records show that Mr. Puzon assured the plaintiff-appellee that he (Jose Puzon) will take care of the squatters in the subject property by filing an ejectment case against them. However, Mr. Puzon failed to comply with his promise.

On December 19, 1986, plaintiff-appellee filed a complaint for recovery of possession with damages against the Sarmiento spouses and Pedro Ogsiner, the Sarmiento spouses' caretaker of the subject property who refused to vacate the premises. In its complaint, plaintiff-appellee alleged that the Sarmiento spouses lost all the rights over the property in question when a certificate of sale was executed in favor of Mr. Sison for their failure to pay the mortgage loan.

On January 30, 1987, the Sarmiento spouses filed a motion for leave to file a third-party complaint against Mr. Sison, the Provincial Sheriff of Pasig, Mr. Puzon, the Judge of Regional Trial Court of Branch 155 in LRC Case No. R-3367 and the Register of Deeds of Marikina. On the same date the Sarmiento spouses filed their answer to the complaint. Expectedly, plaintiff-appellee opposed the motion.

In its order dated June 16, 1987, the trial court denied the motion of the Sarmiento spouses. Records show that the said order of the trial court was set aside in a petition for certiorari filed before this Court. Hence, the third-party complaint was admitted. Consequently, Mr. Sison, the Register of Deeds of Marikina filed their answer, while Mr. Puzon filed a motion to dismiss the third-party complaint on the grounds of misjoinder of causes of action and non-jurisdiction of the trial court over said third-party complaint. In a motion to set for hearing its special and affirmative defenses, the Register of Deeds of Marikina moved for the dismissal of the third-party complaint against them. The motion of Mr. Puzon was held in abeyance by the trial court ratiocinating that the issues raised in the motion still do not appear to be indubitable.

On October 20, 1988, Mr. Puzon filed his answer.

In its order dated February 22, 1989, the trial court dismissed the third-party complaint against the Register of Deeds of Marikina on the ground that the case may proceed even without the Register of Deeds being impleaded.

On April 29, 1991, the trial court issued its assailed decision in favor of the plaintiff-appellee. A timely appeal was filed by the Sarmiento spouses. In their manifestation filed on July 17, 1989, the Heirs of Mr. Sison prayed for substitution for their late father. Consequently, the Heirs of Mr. Sison moved for new trial or reconsideration on the ground that they were not properly represented in the case after the death of Mr. Sison. In its order dated November 28, 1991, the trial court granted the motion.

On February 4, 1993, the trial court dismissed the claim of Mr. Sison as represented by his heirs, that he is the beneficial owner of the subject property. In its order dated May 18, 1993, the court a quo denied the motion for reconsideration of the Heirs of Mr. Sison.[3]

The dispositive portion of the trial court ruling dated 29 April 1991 reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff against all defendants:

- 1) ordering defendant Pedro Ogsiner and all persons claiming rights under him to vacate the premises and surrender peaceful possession to the plaintiff within fifteen (15) days from receipt of this order;
- 2) ordering defendant spouses Sarmiento to pay the sum of P20,000.00 as and for attorney's fees;
- 3) ordering the defendants jointly and severally to pay the sum of P300.00 a month as reasonable compensation for the use of the property in question starting June, 1986 until such time that they actually surrendered the possession of the property to the plaintiff;

4) ordering defendant spouses Sarmiento to pay the cost of this suit.

Defendant's third-party complaint against all third-party defendants is hereby dismissed for lack of sufficient merit.[4]

On appeal by herein petitioners Amancio and Luisa Sarmiento (Sarmiento spouses) and by the heirs of Carlos Moran Sison, the Court of Appeals rendered the assailed Decision, dated 27 November 2001, the dispositive portion of which reads:

WHEREFORE, for lack of merit, the instant appeal is hereby DISMISSED. The assailed April 29, 1991 Decision of the Regional Trial Court of Pasig, Metro Manila is hereby AFFIRMED with the modification that the award of P 20,000.00 as attorney's fees is hereby DELETED. The February 03, 1993 Resolution and the May 18, 1993 Order of the trial court are also hereby AFFIRMED.[5]

On 08 March 2002, the Court of Appeals rendered the assailed Resolution denying petitioners' motion for reconsideration.

The Sarmiento spouses anchor their petition on the following legal arguments:

1)

The ruling of the Court of Appeals that private respondent RRC's certificate of title cannot be collaterally attacked and that their right to claim ownership over the subject property is beyond the province of the action for recovery of possession is contrary to law and applicable decisions of the Supreme Court;

2)

The ruling of the Court of Appeals that private respondent RRC is entitled to ownership of subject property simply by virtue of its title as evidenced by Transfer Certificate of Title (TCT) No. N-119631 is contrary to law and jurisprudence and is not supported by evidence; and

3)

The affirmation by the Court of Appeals of the award of rentals to private respondent RRC lacks factual and legal basis.

First Issue:

The Court of Appeals, in holding that the third-party complaint of the Sarmiento spouses amounted to a collateral attack on TCT No. N-119631, ratiocinated as follows:

In resolving the errors/issues assigned by the herein parties, We should be guided by the nature of action filed by the plaintiff-appellee before the lower court, and as previously shown it is an action for the recovery of possession of the property in question with damages. Thus, from the said nature of action, this Court believes that the focal point of the case is whether or not the plaintiff-appellee has a better right to possess the contested real property. Corollary, it must also be answered whether or not the Transfer Certificate of Title No. N-119631 can be collaterally attacked in an action for recovery of possession.

...

In their assigned errors, the Sarmiento spouses alleged that the plaintiff-appellee is not a purchaser in good faith, as they were chargeable with the knowledge of occupancy by Pedro Ogsiner in behalf of the Sarmiento

spouses, and that the auction sale of the property in favor of Mr. Puzon is null and void for its failure to comply with the requirement of notice provided by the law. The same have been argued by the Heirs of Mr. Sison.

The above assertions, We rule, amounts to a collateral attack on the certificate of title of the plaintiff-appellee. A collateral attack is made when, in another action to obtain a different relief, an attack on the judgment is made as an incident in said action. This is proper only when the judgment on its face is null and void, as where it is patent that the court, which rendered said judgment has no jurisdiction. On the other hand, a direct attack against a judgment is made through an action or proceeding the main object of which is to annul, set aside, or enjoin the enforcement of such judgment, if not carried into effect, or if the property has been disposed of, the aggrieved party may sue for recovery.

In the present case, to rule for the nullity of the auction sale in favor of Mr. Puzon will result in ruling for the nullity of the order of Branch 155 of the Regional Trial Court of Pasig City, granting the petition for consolidation of ownership over the subject property filed by Mr. Puzon. It will also result in the nullity of title issued in the name of Mr. Puzon. Hence, the end objective in raising the aforementioned arguments is to nullify the title in the name of the plaintiff-appellee. In fact, a reading of the answer of the Sarmiento spouses and the Heirs of Mr. Sison reveals that they are asking the court to nullify all documents and proceedings which led to the issuance of title in favor of the plaintiff-appellee. This is obviously a collateral attack which is not allowed under the principle of indefeasibility of torrens title. The issue of validity of plaintiff-appellee's title can only be raised in an action expressly instituted for that purpose. A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law. Case law on the matter shows that the said doctrine applies not only with respect to the original certificate of title but also to transfer certificate of title. Hence, whether or not the plaintiff-appellee has a right to claim ownership over the subject property is beyond the province of the present action. It does not matter whether the plaintiff-appellee's title is questionable because this is only a suit for recovery of possession. It should be raised in a proper action for annulment of questioned documents and proceedings, considering that it will not be procedurally unsound for the affected parties to seek for such remedy. In an action to recover possession of real property, attacking a transfer certificate of title covering the subject property is an improper procedure. The rule is well-settled that a torrens title as a rule, is irrevocable and indefeasible, and the duty of the court is to see to it that this title is maintained and respected unless challenged in a direct proceeding.[6] (Emphasis and underscoring supplied)

An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed.[7] The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement.[8] On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.[9]

In its analysis of the controversy, the Court of Appeals, alas, missed one very crucial detail which would have turned the tide in favor of the Sarmiento spouses. What the Court of Appeals failed to consider is that Civil Case No. 54151 does not merely consist of the case for recovery of possession of property (filed by RRC against the Sarmiento spouses) but embraces as well the third-party complaint filed by the Sarmiento spouses against Carlos Moran Sison, Jose F. Puzon (Mr. Puzon), the Provincial Sherriff of Pasig, Metro Manila, the Municipal Treasurer of Marikina, Rizal, the Judge of the RTC, Branch 155, in LRC Case No. R-3367 and the Register of Deeds of the then Municipality of Marikina, Province of Rizal.

The rule on third-party complaints is found in Section 22, Rule 6 of the 1997 Rules of Court, which reads:

Sec. 22. Third, (fourth, etc.)-party complaint. – A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third-party defendant, for contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim.

A third-party complaint is in the nature of an original complaint. This is so because it is "actually independent of and separate and distinct from the plaintiff's complaint." [10] In herein case, after leave of court was secured [11] to file a third-party complaint, the third-party complainants (Sarmiento spouses) had to pay the necessary docket fees. [12] Summonses were then issued on the third-party defendants [13] who answered in due time. [14]

In *Firestone Tire and Rubber Company of the Philippines v. Tempongko*, [15] we had occasion to expound on the nature of a third-party complaint, thus:

The third-party complaint, is therefore, a procedural device whereby a "third party" who is neither a party nor privy to the act or deed complained of by the plaintiff, may be brought into the case with leave of court, by the defendant, who acts as third-party plaintiff to enforce against such third-party defendant a right for contribution, indemnity, subrogation or any other relief, in respect of the plaintiff's claim. The third-party complaint is actually independent of and separate and distinct from the plaintiff's complaint. Were it not for this provision of the Rules of Court, it would have to be filed independently and separately from the original complaint by the defendant against the third-party. But the Rules permit defendant to bring in a third-party defendant or so to speak, to litigate his separate cause of action in respect of plaintiff's claim against a third party in the original and principal case with the object of avoiding circuitry of action and unnecessary proliferation of lawsuits and of disposing expeditiously in one litigation the entire subject matter arising from one particular set of facts. . . . When leave to file the third-party complaint is properly granted, the Court renders in effect two judgments in the same case, one on the plaintiff's complaint and the other on the third-party complaint. (Emphasis supplied)

Prescinding from the foregoing, the appellate court grievously erred in failing to appreciate the legal ramifications of the third-party complaint vis-à-vis the original complaint for recovery of possession of property. The third-party complaint for cancellation of TCT being in the nature of an original complaint for cancellation of TCT, it therefore constitutes a direct attack of such TCT.

The situation at bar can be likened to a case for recovery of possession wherein the defendant files a counterclaim against the plaintiff attacking the validity of the latter's title. Like a third-party complaint, a counterclaim is considered an original complaint, as such, the attack on the title in a case originally for recovery of possession cannot be considered as a collateral attack. We thus held in *Development Bank of the Philippines (DBP) v. Court of Appeals*: [16]

Nor is there any obstacle to the determination of the validity of TCT No. 10101. It is true that the indefeasibility of torrens titles cannot be collaterally attacked. In the instant case, the original complaint is for recovery of possession filed by petitioner against private respondent, not an original action filed by the latter to question the validity of TCT No. 10101 on which the petitioner bases its right. To rule on the issue of validity in a case for recovery of possession is tantamount to a collateral attack. However, it should not be overlooked that private respondent filed a counterclaim against petitioner, claiming ownership over the land and seeking damages. Hence, we could rule in the question of the validity of TCT No. 10101 for the counterclaim can be considered a direct attack on the same. "A counterclaim is considered a complaint, only this time, it is the original defendant who becomes plaintiff ... It stands on the same footing and is to be tested by the same rules as if it were an independent action."

There being a direct attack on the TCT which was unfortunately ignored by the appellate court, it behooves this Court to deal with and to dispose of the said issue more so because all the facts and evidence necessary for a complete determination of the controversy are already before us. Again, DBP instructs:

. . . In an analogous case, we ruled on the validity of a certificate of title despite the fact that the original action instituted before the lower court was a case for recovery of possession. The Court reasoned that since all the facts of the case are before it, to direct the party to institute cancellation proceedings would be needlessly

circuitous and would unnecessarily delay the termination of the controversy which has already dragged on for 20 years.[17]

Second Issue:

In their third-party complaint, as amended, the Sarmiento spouses asserted six causes of action. The second[18] to sixth causes of action referred to the proceedings leading to and resulting from the tax sale held on 28 August 1982, summarized by the trial court as follows:

. . . Third Party Plaintiffs alleged that on August 28, 1982, the Municipal Treasurer of Marikina sold at public auction, the same property in favor of Jose F. Puzon for tax deficiency at the price of Three Thousand Three Hundred Eighty Four Pesos and 89/100 (P 3,383.89) which is very low considering that the area of the property is 1,060 square meters; that they were not notified of the public auction sale and further, the requirements, such as posting of notices in public places, among other requirements, were not complied with; that since the property was sold at a very low price, the public auction sale and the Certificate of Sale issued by Municipal Treasurer of Marikina in favor of third party defendant Jose F. Puzon are null and void; that in August 1984, the third party defendant in order to consolidate his ownership and title to the property filed a Petition with the Land Registration Commission in the Regional Trial Court, Branch 155, Pasig, Metro Manila in LRC Case No. R-3367, for consolidation of his ownership and title; that third party plaintiffs were not notified thereof and did not have their day in Court; hence, the order of the Judge of the Regional trial Court in LRC Case No. R-3367 authorizing the consolidation of the ownership and title of Jose F. Puzon is null and void, that Jose F. Puzon after having been issued a new title in his name sold in June 1986, the property in favor of plaintiff RODEANNA REALTY CORPORATION.[19]

The Sarmiento spouses thus prayed that: (a) the certificate of sale executed by the Municipal Treasurer of the then Municipality of Marikina, Rizal, in favor of Mr. Puzon be declared null and void and all subsequent transactions therefrom declared null and void as well; (b) the Order of the RTC in LRC Case No. R-3367, authorizing the consolidation of ownership of and issuance of new TCT No. 102909 in favor of Mr. Puzon, be declared null and void; (c) the Register of Deeds be directed to cancel the Certificate of Sale and TCT No. 102909 issued in favor of Mr. Puzon as well as TCT No. N-119631 issued in the name of RRC and that TCT No. 370807 in the name of the Sarmiento spouses be restored; (d) all third-party defendants be made to pay, jointly and severally, moral and exemplary damages such amount as to be fixed by the court as well as attorney's fees in the amount of P10,000.00; and (e) Mr. Puzon be made to pay P500,000.00 – the actual value of the property at the time of the tax sale – in the remote event that the title of RRC is not invalidated.

The trial court held that the Sarmiento spouses were not entitled to the relief sought by them as there was nothing irregular in the way the tax sale was effected, thus:

Defendants Sarmiento aver that they were not notified of the auction sale of the property by the Municipal Treasurer of Marikina. However, the Court would like to point out that during the examination of Amancio Sarmiento, he testified that in 1969 or 1970, he started residing at No. 13 19th Avenue, Cubao, Quezon City; that his property was titled in 1972; that he transferred his residence from Cubao to No. 76 Malumanay Street, Quezon City but he did not inform the Municipal Treasurer of the said transfer. Hence, notice was directed to his last known address.

. . .

The law requires posting of notice and publication. Personal notice to the delinquent taxpayer is not required. In the case at bar, notice was sent to defendants (sic) address at No. 12 13[th] Avenue, Cubao Quezon City. If said notice did not reach the defendant, it is because of defendants' fault in not notifying the Municipal Treasurer of Marikina of their change of address.[20]

The above-quoted ratiocination does not sit well with this Court for two fundamental reasons. First, the trial court

erroneously declared that personal notice to the delinquent taxpayer is not required. On the contrary, personal notice to the delinquent taxpayer is required as a prerequisite to a valid tax sale under the Real Property Tax Code,[21] the law then prevailing at the time of the tax sale on 28 August 1982.[22]

Section 73 of the Real Property Tax Code provides:

Sec. 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 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.

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. (Emphasis supplied)

We cannot overemphasize that strict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible suspicion of collusion between the buyer and the public officials called upon to enforce the laws.[23] Notice of sale to the delinquent land owners and to the public in general is an essential and indispensable requirement of law, the non-fulfillment of which vitiates the sale.[24] Thus, the holding of a tax sale despite the absence of the requisite notice is tantamount to a violation of delinquent taxpayer's substantial right to due process. [25] Administrative proceedings for the sale of private lands for nonpayment of taxes being in personam, it is essential that there be actual notice to the delinquent taxpayer, otherwise the sale is null and void although preceded by proper advertisement or publication.[26]

The consequential issue in this case, therefore, is whether or not the registered owners – the Sarmiento spouses – were personally notified that a tax sale was to be conducted on 28 August 1982.

The Sarmiento spouses insist that they were not notified of the tax sale. The trial court found otherwise, as it declared that a notice was sent to the spouses' last known address. Such conclusion constitutes the second fundamental error in the trial court's disposition of the case as such conclusion is totally bereft of factual basis. When findings of fact are conclusions without citation of specific evidence upon which they are based, this Court is justified in reviewing such finding.[27]

In herein case, the evidence does not support the conclusion that notice of the tax sale was sent to the Sarmiento spouses' last known address. What is clear from the evidence is that the Sarmiento spouses were notified by mail after the subject property was already sold, i.e., the notice that was sent to the last known address was the "Notice of Sold Properties" and not the notice to hold a tax sale.[28] This was testified upon by third-party defendant Natividad M. Cabalquinto, the Municipal Treasurer of Marikina, who swore that per her records, neither notice of

tax delinquency nor notice of tax sale was sent to the Sarmiento spouses.[29] Counsel for respondent RRC did not cross-examine Ms. Cabalquinto on this on the theory that Ms. Cabalquinto had no personal knowledge of the tax sale and the proceedings leading thereto as she became Municipal Treasurer only in 1989.[30]

Notwithstanding Ms. Cabalquinto's lack of personal knowledge, her testimony -- that per records in her possession no notice was actually sent to the Sarmiento spouses -- is sufficient proof of the lack of such notice in the absence of contrary proof coming from the purchaser in the tax sale, Mr. Puzon, and from his eventual buyer, herein private respondent RRC. Be it noted that under Section 73 of the Real Property Tax Code, it is required that a return of the proof of service to the registered owner be made under oath and filed by the person making the service with the provincial or city treasurer concerned. This implies that as far as tax sales are concerned, there can be no presumption of the regularity of any administrative action; hence the registered owner/delinquent taxpayer does not have the burden of proof to show that, indeed, he was not personally notified of the sale thru registered mail.

There can be no presumption of the regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale.[31] This is an exception to the rule that administrative proceedings are presumed to be regular.[32] This doctrine can be traced to the 1908 case of *Valencia v. Jimenez and Fuster*[33] where this Court held:

The American law does not create a presumption of the regularity of any administrative action which results in depriving a citizen or taxpayer of his property, but, on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule is that the purchaser of a tax title is bound to take upon himself the burden of showing the regularity of all proceedings leading up to the sale. The difficulty of supplying such proof has frequently lead to efforts on the part of legislatures to avoid it by providing by statute that a tax deed shall be deemed either conclusive or presumptive proof of such regularity.

Those statutes attributing to it a conclusive effect have been held invalid as operating to deprive the owner of his property without due process of law. But those creating a presumption only have been sustained as affecting a rule of evidence, changing nothing but the burden of proof. (*Turpin v. Lemon*, 187 U.S., 51.)

The tax law applicable to Manila does not attempt to give any special probative effect to the deed of the assessor and collector, and therefore leaves the purchaser to establish the regularity of all vital steps in the assessment and sale.

In the fairly recent case of *Requiron v. Sinaban*,[34] we had occasion to reiterate the doctrine laid down in *Valencia* with respect specifically to tax sales conducted under Commonwealth Act No. 470 (Assessment Law). Nevertheless, no substantial variance exists between Commonwealth Act No. 470 and the Real Property Tax Code, which took effect on 01 June 1974, concerning the required procedure in the conduct of public auction sale involving real properties with tax delinquencies.[35]

In sum, for failure of the purchaser in the tax sale (third-party defendant Mr. Puzon) to prove that notice of the tax sale was sent to the Sarmiento spouses, such sale is null and void.

As the tax sale was null and void, the title of the buyer therein (Mr. Puzon) was also null and void, which thus leads us to the question of who between petitioners and private respondent RRC has the right to possess the subject property.

In its complaint for recovery of possession with damages filed before the trial court, RRC averred that it is the present registered owner of the subject land which it bought from Mr. Puzon, who was then the registered owner thereof, free from liens and encumbrances. It also stated that therein defendant Pedro Ogsiner was an illegal occupant as he was the overseer for the Sarmiento spouses who no longer had any title to or rights over the

property. It thus prayed that Pedro Ogsiner vacate the property and that he and the Sarmiento spouses be ordered to pay attorney's fees and rent in the amount of P500.00 monthly from 1984 until Pedro Ogsiner finally vacates the land.[36]

In their Answer,[37] the Sarmiento spouses invoked certain affirmative defenses, to wit:

- (1) The certificate of sale issued by the Municipal Treasurer of Marikina, Rizal, the order authorizing consolidation of ownership and the issuance of a new title all in favor of Mr. Puzon were null and void as the Sarmiento spouses and Pedro Ogsiner were not notified of the tax sale;
- (2) Mr. Puzon, knowing that the sale of the subject property by the Municipal Treasurer of Marikina was null and void, still sold the same to herein private respondent RRC; and
- (3) RRC purchased the property in bad faith, thus the sale to it was null and void.

A complaint for recovery of possession based on ownership (*accion reivindicatoria* or *accion reivindicacion*) is an action whereby the plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession.[38] As possession is sought based on ownership, we must inquire into the title of RRC which it acquired from Mr. Puzon who, in turn, derived his title from the void tax sale.

The void tax sale notwithstanding, RRC's title cannot be assailed if it is a purchaser in good faith and for value.[39]

In its narration of the facts, the trial court acknowledged that RRC -- through its President, Roberto Siy, and through its representative, Lorenzo Tabilog -- conducted an ocular inspection of the subject land and found therein that its actual occupant, Pedro Ogsiner, had a house erected thereon and that such occupant was the overseer for the Sarmiento spouses who claimed ownership over the subject land.[40] Armed with this knowledge, RRC did only one thing: it offered Pedro Ogsiner P2,000.00 to vacate the subject property.[41] Relying on the fact that the TCT in Mr. Puzon's name was free of liens and encumbrances and that Mr. Puzon would take care of the "squatters," RRC did not investigate whatever claim Pedro Ogsiner and the Sarmiento spouses had over the subject land.

From the foregoing undisputed facts, the trial court held:

There is no doubt that when the plaintiff Rodeanna Realty Corporation purchased the property, there was a title in the name of Jose Puzon, thus, making them a purchaser (sic) in good faith and for value. Said buyers relied on the owners (sic) title which is free and clear of all liens and encumbrances.

...

After a careful evaluation of the facts of this case, the Court believes that plaintiff is entitled to the relief sought for. As enunciated in the case of *Carmelita E. Reyes vs. Intermediate Appellate Court, Gregorio Galang and Soledad Pangilinan* (No. L-60941, February 28, 1985, 135 SCRA 214), a contract of sale between a buyer from public auction of land sold for unpaid realty taxes and subsequent innocent purchaser in good faith and for value is valid whether or not the City Treasurer followed the prescribed procedure.

In the case at bar, assuming that the Municipal Treasurer of Marikina failed to comply with certain procedure, it does not follow that the Rodeanna Realty Corporation has no valid title. For as they have asserted, they are purchaser in good faith and for value in the amount of P190, 000.00. There is nothing in the record which would show that they were aware or they were party to the alleged irregularities. Hence, title of Rodeanna Realty Corporation cannot now be assailed (*William vs. Barrera*, 68 Phil. 656; *PMHC vs. Mencias*, August 16, 1967, 20 SRCA 1031; *Pascua vs. Capuyos*, 77 SCRA 78).[42]

In affirming the trial court, the Court of Appeals ruled:

As proven by the plaintiff-appellee, they obtained the property in question from Mr. Puzon, who in turn acquired it in a public auction conducted by the Municipality of Marikina. By virtue of the sale by Mr. Puzon to plaintiff-appellee, TCT No. N-119631 was issued in its name. The best proof of ownership of a piece of land is the certificate of title. The certificate of title is considered the evidence of plaintiff-appellee's ownership over the subject real property, and as its registered owner, it is entitled to its possession. Hence, as compared to the Sarmiento spouses whose previous title over the subject property has been cancelled, and to the Heirs of Mr. Sison, who had not shown any better proof of ownership, the plaintiff-appellee, as evidenced by its certificate of title, has superior right to possess the contested property. Xxx[43]

Verily, every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go behind the certificate to determine the condition of the property.[44] Thus, the general rule is that a purchaser may be considered a purchaser in good faith when he has examined the latest certificate of title.[45] An exception to this rule is when there exist important facts that would create suspicion in an otherwise reasonable man to go beyond the present title and to investigate those that preceded it. Thus, it has been said that a person who deliberately ignores a significant fact which would create suspicion in an otherwise reasonable man is not an innocent purchaser for value.[46] A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor.[47] As we have held:

The failure of appellees to take the ordinary precautions which a prudent man would have taken under the circumstances, specially in buying a piece of land in the actual, visible and public possession of another person, other than the vendor, constitutes gross negligence amounting to bad faith.

In this connection, it has been held that where, as in this case, the land sold is in the possession of a person other than the vendor, the purchaser is required to go beyond the certificate of title to make inquiries concerning the rights of the actual possessor. Failure to do so would make him a purchaser in bad faith. (Citations omitted).

...

One who purchases real property which is in the actual possession of another should, at least make some inquiry concerning the right of those in possession. The actual possession by other than the vendor should, at least put the purchaser upon inquiry. He can scarcely, in the absence of such inquiry, be regarded as a bona fide purchaser as against such possessors.[48] (Emphasis supplied)

Prescinding from the foregoing, the fact that private respondent RRC did not investigate the Sarmiento spouses' claim over the subject land despite its knowledge that Pedro Ogsiner, as their overseer, was in actual possession thereof means that it was not an innocent purchaser for value upon said land. Article 524 of the Civil Code directs that possession may be exercised in one's name or in that of another. In herein case, Pedro Ogsiner had informed RRC that he was occupying the subject land on behalf of the Sarmiento spouses. Being a corporation engaged in the business of buying and selling real estate,[49] it was gross negligence on its part to merely rely on Mr. Puzon's assurance that the occupants of the property were mere squatters considering the invaluable information it acquired from Pedro Ogsiner and considering further that it had the means and the opportunity to investigate for itself the accuracy of such information.

Third Issue:

As it is the Sarmienos spouses, as exercised by their overseer Pedro Ogsiner, who have the right of possession over the subject property, they cannot be made to pay rent to private respondent RRC.

WHEREFORE, premises considered, the Decision of the Court of Appeals dated 27 November 2001 and its

Resolution dated 08 March 2002 are REVERSED and SET ASIDE. The public auction sale conducted on 28 August 1982 is declared VOID for lack of notice to the registered owners Amancio and Luisa Sarmiento. Transfer Certificate of Title No. N-119631 of the Registry of Deeds of what was then the Municipality of Marikina, Province of Rizal, in the name of Rodeanna Realty Corporation is hereby ANNULLED. The Register of Deeds of Marikina City, Metro Manila, is ordered to cancel TCT No. N-119631 and to issue, in lieu thereof, a new title in the name of spouses Amancio and Luisa Sarmiento. Costs against private respondent RRC.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Associate Justice Perlita J. Tria Tirona with Associate Justices Ramon A. Barcelona and Bernardo P. Abesamis concurring, Rollo, pp. 38-48.

[2] Penned by Associate Justice Perlita J. Tria Tirona with Associate Justices Conchita Carpio-Morales (now a member of this Court) and Bernardo P. Abesamis concurring, Rollo, pp. 49-50.

[3] Rollo, pp. 39-42.

[4] Rollo, pp. 68-69.

[5] Rollo, p. 48

[6] Rollo, pp. 45-47.

[7] *Malilin, Jr. v. Castillo*, G.R. No. 136803, 16 June 2000, 333 SCRA 628, 640.

[8] *Ibid.*

[9] *Ibid.*

[10] *Firestone Tire and Rubber Company of the Philippines v. Tempongko*, No. L-24399, 28 March 1969, 27 SCRA 418, 423.

[11] The Motion to file a third-party complaint was initially denied by the trial court on 16 June 1987 while the motion for reconsideration was denied on 22 July 1987 (Records, pp. 54-55, 65). The Sarmiento spouses then elevated the denial to the Court of Appeals via a Petition for Certiorari. The Fourteenth Division of the appellate court, composed of Associate Justices Fidel P. Purisima, Emeterio C. Cui and Jesus M. Elbinias, set aside the trial court's orders and ordered, instead, the admission of the Sarmiento spouses' third-party complaint (Records, pp. 166-170).

[12] See Order of the trial court dated 25 January 1988 (Records, p. 121).

[13] *Ibid.*

[14] Third-Party defendant Carlos Moran Sison answered on 24 March 1988 (Records, pp. 137-146). Third-Party Register of Deeds of Marikina filed its Answer on 06 May 1988 (Records, pp. 157-160). Defendant Puzon filed his "Answer with Counterclaim" on 20 October 1988 (Records, pp. 214-218) while he filed his supplemental answer to the amended third-party complaint on 26 July 1989 (Rollo, pp. 146-147). RRC likewise filed its Answer to the third-party complaint (Rollo, pp. 148-149).

[15] *Supra*, note 10.

[16] G.R. No. 129471, 28 April 2000, 331 SCRA 267, 286-287 (citing *A. Francisco Realty and Development Corp. v. Court of Appeals*, G.R. No. 125055, 30 October 1998, 298 SCRA 349, 358). See also *Heirs of Simplicio Santiago v. Heirs of Mariano Santiago*, G.R. No. 151440, 17 June 2003, 404 SCRA 193, 203-204.

[17] *Id.* at 287 (citing *Mendoza v. Court of Appeals*, No. L-62089, 09 March 1988, 158 SCRA 508, 512-514). The instant controversy, on the other hand, is approaching its 19th anniversary, the complaint for recovery of possession having been filed before the RTC on 19 December 1986.

[18] The first cause of action does not have direct bearing on the present petition as the same was made against Mr. Sison, the mortgagee who was able to foreclose the subject property and who had his right annotated on the title which was then still in the name of the Sarmiento spouses. It will be recalled that Mr. Sison failed to consolidate his title to the property despite non-redemption by the Sarmiento spouses. When the title to the property was transferred to Mr. Puzon, the highest bidder in the tax sale, the TCT no longer carried Mr. Sison's annotation. The trial court ruled in favor of RRC, the plaintiff in the case for recovery of possession and against the Sarmiento spouses and Mr. Sison. The heirs of Sison, after having been substituted for their late father, seasonably filed a motion for new trial which motion was granted. After trial, however, the trial court dismissed the claim of Mr. Sison, as represented by his heirs, that he is the beneficial owner of the subject property. The trial court denied the motion for reconsideration of the heirs of Sison who then timely appealed to the Court of Appeals. The Court of Appeals, however, affirmed the ruling of the trial court. It does not appear from the records of the case that the heirs of Sison appealed the Court of Appeals decision to this Court. Before this Court, when required to comment to the instant petition filed by the Sarmiento spouses, the heirs of Sison, namely George (Rollo, p. 218), Luis (Rollo, p. 221) and Margarita (Rollo, pp. 227, 230), manifested that they will not file any comment and that they are willing to comply with the petition. Ricardo Sison, another heir, manifested that he had no objection to the instant petition (Rollo, p. 260).

[19] Rollo, pp. 52-53.

[20] Rollo, pp. 66-68.

[21] *Puzon v. Abellera*, G.R. No. 75082, 31 January 1989, 169 SCRA 789, 795.

[22] The Real Property Tax Code was the precursor of the Local Government Code of 1991 (Republic Act No. 7160). At present, the notice requirement in tax sales is set forth in Section 178 of Rep. Act No. 7160:

SECTION 178. Advertisement and Sale. – Within thirty (30) days after the levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the claim and cost of sale; and such advertisement shall cover a period of at least thirty (30) days. It shall be effected by posting a notice at the main entrance of the municipal building or city hall, and in a public and conspicuous place in the barangay where the real property is located, and by publication once a week for three (3) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall contain the amount of taxes, fees, or charges are levied, and a short description of the property to be sold. At any time before the date fixed for the sale, the taxpayer may stay the proceedings by paying the taxes, fees, charges, penalties and interests. If he fails to do so, the sale shall proceed and shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold., or at any other place as determined by the local treasurer conducting the sale and specified in the notice of sale.

Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. After consultation with the sanggunian, the local treasurer shall make and deliver to the purchaser a certificate of sale, showing the proceeding of the sale,

describing the property sold, stating the name of the purchaser and setting out the exact amount of all taxes, fees, charges, and related surcharges, interests, or penalties: Provided, however, That any excess in the proceeds of the sale over the claim and cost of sales shall be turned over to the owner of the property.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection by means of the remedies provided for in this Title, including the preservation or transportation in case of personal property, and the advertisement and subsequent sale, in cases of personal and real property including improvements thereon.

[23] *Serfino v. Court of Appeals*, No. L-40858, No. L-40751, 15 September 1987, 154 SCRA 19, 27.

[24] *Ibid.* See also *Cf. Tiongco v. Philippine Veterans Bank*, G.R. No. 82782, 05 August 1992, 212 SCRA 176, 192; and *Cabrera v. Prov. Treasurer*, 75 Phil. 780.

[25] *Supra*, note 21.

[26] *Ibid.*; *Lopez v. Director of Lands*, 47 Phil. 23; *Talusan v. Tayag*, G.R. No. 133698, 04 April 2001, 356 SCRA 263, 276.

[27] *Solid Homes, Inc. v. Court of Appeals*, G.R. No. 117501, 08 July 1997, 275 SCRA 267, 279.

[28] TSN, 16 March 1992, pp. 9-10.

[29] *Id.*, p. 8.

[30] *Id.*, p. 10.

[31] *Francia v. Intermediate Appellate Court*, No. L-67649, 28 June 1988, 162 SCRA 753, 760.

[32] *Ibid.*

[33] 11 Phil 492, 498-499; and reiterated in *Camo v. Buyco*, No. 8304, 11 February 1915, 29 Phil. 437, 444-445.

[34] G.R. No. 138280, 10 March 2003, 398 SCRA 713, 722.

[35] *Ibid.*

[36] Records, pp. 1-3.

[37] Records, pp. 263-265.

[38] *Serdoncillo v. Benolirao*, G.R. No. 118328, 08 October 1998, 297 SCRA 448, 460.

[39] *Cf. Reyes v. Intermediate Appellate Court*, No. L-60941, 28 February 1985, 135 SCRA 214, 223-224.

[40] Rollo, pp. 56-58.

[41] *Ibid.*

[42] Rollo, pp. 67-68.

[43] *Id.*, p. 45 (citation omitted).

[44] *Heirs of Tajonera v. Court of Appeals*, No. L-26677, 27 March 1981, 103 SCRA 467, 474.

[45] *Ibid.*

[46] *Development Bank of the Philippines v. Court of Appeals*, *supra*, note 16.

[47] Ibid.

[48] Id., pp. 290-291. See also *Lucena v. Court of Appeals*, G.R. No. 77468, 25 August 1999, 313 SCRA 47, 59-60; *Santiago v. Court of Appeals*, G.R. No. 117014, 14 August 1995, 247 SCRA 336, 345; *De Guzman, Jr. v. Court of Appeals*, G.R. No. L-46935, 21 December 1987, 156 SCRA 701, 710.

[49] TC Decision, Rollo, p. 6.

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