

MERCEDES D. VALBUENA, ET AL., PLAINTIFFS AND APPELLANTS, VS. AURELIO REYES, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 48177. September 30, 1949*

Ponente: MONTEMAYOR, J.

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This is an old case which appears to have been appealed to the Supreme Court sometime in the year 1941 but whose record was burned during the last world war. While there had been a reconstitution of the said record, particularly what appears to be a portion of the record on appeal, not all the pleadings and court orders, including the record of the evidence are available, although the more important and pertinent pleadings and orders are included in the reconstitution. For this reason, we have to gather the pertinent facts in this case not only from the record on appeal as partly reconstituted but also from the briefs of the parties, appellant and appellee.

Mercedes D. Valbuena, married to Felix Valbuena was the registered owner of a parcel of land situated in the City of Manila, particularly described in Transfer Certificate of Title No. 24030 issued in her name. For non-payment of real estate taxes of said property assessed in the name of Mercedes D. Valbuena, for the years 1934, 1935 and 1936, the City Treasurer of Manila advertised said parcel for sale at public auction to satisfy the delinquency, including penalties and costs of the sale in accordance with the provisions of Sec. 2498 of the Administrative Code as amended by Act 4173, that is after posting notices in the City Hall and other public and conspicuous places including the district where the property lies, coupled with the publications for a period of thirty days. The said notice of sale was published once a week for three consecutive weeks, in local newspapers of general circulation to wit: *EI Debate* on March 31, 1937; *The Tribune* on April 7, 1937; and *Mabuhay* on April 14, 1937. (p. 1, Brief for Aurelio Reyes)

The property was sold at public auction on May 3, 1937, to Aurelio Reyes for the sum of Php.140.00.

Prior to the expiration of the redemption period of one year as provided by law, the City Treasurer of Manila, "altho not obliged by law to do so, addressed, mailed and sent a letter dated April 1, 1938 to plaintiff appellant Mercedes Valbuena at her known address appearing in the file of the City Treasurer's office at No. 462 Manuguit street, Manila, informing said appellant that the period of redemption of said property sold at public auction would expire on May 3, 1938." (pp. 15-2, Brief of Aurelio Reyes)

Because the property was not redeemed within the period of one year, the office of the City Treasurer of Manila issued the corresponding Deed of Absolute Sale in favor of Aurelio Reyes on May 31, 1948. Thereafter, pursuant to the provisions of Section 78 of Act No. 496, Aurelio Reyes filed a motion under oath entitled "Aurelio Reyes, petitioner vs. Mercedes D, Valbuena, respondent," in G.R.L.O. Record No. 11546 in the Court of First Instance of Manila, Fourth Branch, which had exclusive jurisdiction over land registration cases. The motion was set for hearing by the Court but inasmuch as neither Mercedes Valbuena nor her heirs appeared on the date set for hearing, although a notice thereof by registered mail, had been sent to her last known residence, the Court issued an order dated September 19, 1938, which was published in the newspaper "*La Vanguardia*," then a newspaper of

general circulation in the Philippines, once a week, for three consecutive weeks, requiring Mercedes or her heirs to appear on the date set for the hearing on November 19, 1938, at 8:30 a.m., to bring with her the Duplicate Transfer Certificate of Title No. 24030 and to give her reasons, if any, why the prayer in the motion of Aurelio Reyes dated May 31, 1938, that on the basis of the Deed of Absolute Sale executed in his favor by the City Treasurer of Manila, the Court require Mercedes to deliver to the Register of Deeds the Duplicate Certificate of Title for cancellation; that upon her failure to do so, said Certificate of Title be declared cancelled and that a new Certificate of Title be issued in favor of petitioner Aurelio Reyes, should not be granted.

Despite the publication of the order in the newspaper, neither Mercedes nor her heirs appeared before the Court on November 19, 1938. Aurelio Reyes introduced his evidence to support his motion and thereafter, Judge Gervasio Diaz, presiding over the Fourth Branch of the Court of First Instance of Manila, issued an order dated December 1, 1938, which because of its importance in this case is reproduced below:

"No habiendo comparecido Mercedes D. Valbuena ni sus herederos al ser llamado a vista este asunto, a pesar de haber sido citados mediante publicación en el periódico LA VANGUARDIA, de circulación general en Filipinas, una vez a la semana, por tres semanas consecutivas, de la orden de este Juzgado de fecha 19 de Septiembre de 1938, ordenando a dicha recurrida Mercedes D. Valbuena o sus herederos a que comparezcan ante el mismo el día 19 de Noviembre de 1938, a las 8:30 de la mañana, trayendo consigo el duplicado del Certificado de Transferencia de Título No. 24030 expedido a su favor por el Registrador de Títulos de Manila y exponga sus razones, si algunas tuvieren, por que no se debe acceder a la moción jurada presentado por el recurrente, de fecha 31 de Mayo de la 1938, pidiendo que, de acuerdo con el artículo 78 de la Ley No. 496, y en virtud de la escritura de venta definitiva otorgada a su favor por el Tesorero de la Ciudad de Manila por falta de pago de la contribucion territorial de la finca, con sus mejores, descrita en la misma, se oréade a Mercedes D. Valbuena que entregue el Registrador de Titulos de Manila el duplicado de Certificado de Transferencia de Título No, 24030 para su cancelación, y, en caso contrario, se declare cancelado el mismo. ordenando. en su consecuencia, la expedición de otro nuevo titulo en su lugar a favor del recurrente, y encontrando el Juzgado fundada la petición.

"Por la presente, se declara nulo y de ningún valor el duplicado dela ludido certificado de Transferencia de Título No. 24030, y SE ORDENA al Registrador de Titulos de Manila admita a inscripción la citada escritura de venta definitiva otorgada por el Tesorero de la Ciudad de Manila a favor del recurrente Aurelio Reyes, de fecha 31 de Mayo de 1948, ante el Notario Publico de esta capital don Marcelino S. Cueto, y cancelas, en su consecuencia de acuerdo con el artículo 78 de la Ley 496, el Certificado de Transferencia de Título No. 24030 de la Oficina de su cargo, y expida en lugar del mismo otro nuevo en identicos termines que el que se ha de cancelar pero a favor de AURELIO REYES, Mayor de edad, filipino, casado con Sabina Tobias, y residence en la calle Fraterildad No. 211, Pandacan. Manila, previo el pago de los derechos correspondientes, ASI SE ORDENA.

Manila, Pilipinas, Diciembre 10, 1938."

After the lapse of thirty (30) days Narciso Pena, Register of Deeds of the City of Manila, inscribed in his Records the Deed of Absolute Sale executed in favor of Aurelio Reyes, and the cancellation of Certificate of Title No. 24030 in the name of Mercedes D. Valbuena, and he issued in lieu thereof, a new Certificate of Title No. 55001 in the name of Aurelio Reyes.

Several months thereafter, or rather on August 3, 1939, the present proceedings entitled Mercedes D. Valbuena and Felix Valbuena, plaintiffs vs. Aurelio Reyes, Victor Alfonso as City Treasurer of Manila and Narciso Pena as Acting Register of Deeds of the City of Manila under Civil Case No. 53406, were commenced in the Court of First Instance of Manila. The complaint was amended on August 24, 1940 by substituting for Mercedes Valbuena her heirs Consuelo, Cornelio, Viriginia, and Felixberto, all surnamed Valbuena.

The plaintiffs sought to invalidate the sale at public auction of the property in question by the City Treasurer in favor of Aurelio Reyes and asked the Court to have the new Certificate of Title No. 55001 issued in the name of Aurelio Reyes cancelled and to declare valid and subsisting the former Certificate of Title No. 24030 in the name of Mercedes. The prayer of the complaint was based on the allegation that the property sold was worth much more than the amount for which it was sold at the auction sales that the City Treasurer did not comply with the requisites of the law as to notice of public sale and that the owner of the land was never informed of the said sale; and that neither was she informed of the petition of Aurelio Reyes for the cancellation of Certificate of Title No. 24030 and the issuance of a new Certificate of Title in his name.

Aurelio Reyes filed a motion for the dismissal of the complaint. Acting upon said motion, Judge Jose O. Vera after citing the order of Judge Gervasio Diaz of December 1, 1938, declared that, there was *res adjudicata* and so dismissed the complaint. The heirs of Mercedes D. Valbuena and her widower had brought the case to this Court on appeal from that order.

With respect to the administrative proceedings had in connection with the tax sale, as already stated, we do not have the complete record of the proceedings of the lower court, particularly the evidence presented by Aurelio Reyes to prove the regularity of the Tax Sale conducted by the City Treasurer of Manila. But there is every reason to believe, and we may presume that the procedure prescribed by law for the advertisement of the sale and the posting of the corresponding notices had been followed, Not only this, but the advertisement was also duly published in the newspapers.

As to the proceedings in Court, they also seem to be regular and valid. The sworn motion or petition filed by Aurelio Reyes in the Fourth Branch of the Court of First Instance of Manila, was duly set for hearing and Mercedes Valbuena was sent a copy of the notice of hearing by registered mail. She failed to appear at the hearing. The Court then ordered her to appear and bring with her the Duplicate Certificate of Title, and show cause why the motions should not be granted, and the order was published in a newspaper of general circulation. The petition of Aurelio Reyes was granted only after her failure to appear.

It is now claimed by the appellants that Mercedes D. Valbuena had been dead since 1931, and consequently, she could not have been notified of the tax sale or of the motion of Aurelio Reyes filed in Court, neither were her heirs or her widower notified. This may explain her failure to pay taxes on the parcel for the years 1934, 1935 and 1936, to stop the sale by paying the tax delinquency, and to redeem the land within one year after the sale, as well as to appear in Court to contest the motion of Aurelio Reyes. But it cannot excuse her heirs, including her surviving spouse, Felix Valbuena from doing what she could have done had she been living. They have no one to blame but themselves for the loss of the property to them.

This Court can well imagine the apparently loose and negligent manner in which the affairs and property of Mercedes D. Valbuena had been attended to and conducted after her death in 1931. For three consecutive years thereafter, her widower and her heirs neglected the payment of the real estate taxes of the property in litigation. They failed and neglected to notify the Treasurer's Office of Mercedes' death and the substitution of her heirs or her widower for her as owner or caretaker or person in charge of the property. When advertisement of the tax delinquency, and of the tax sale was posted in public places and published in newspaper as required by law neither the widower nor the heirs took any action, not even to inform the Treasurer that Mercedes was already dead. When a personal notice advising her that the land had been sold and that the period of redemption would expire on May 3, 1938, was sent to her known address appearing in the records of the Office of the City Treasurer, neither her heirs nor her widower took any action.

Again, when the Court of First Instance of Manila summoned Mercedes by ordinary process and later by

newspaper publication to appear before it, bring her Transfer Certificate of Title and show cause why it should not be cancelled and a new one issued in the name of Aurelio Reyes, the heirs and the widower ignored or took no notice of the court's order. To show further the latter haphazard and inefficient manner in which the affairs of Mercedes were conducted after her death, in 1939, eight years after her death, we find her widower Felix Valbuena bringing this action still in her name and in his, making the Court and the parties defendant believe that Mercedes was still alive. It was not until 1940, about one year after he had filed his complaint, that the widower, or the heirs saw fit and got around to amend the complaint by substituting her heirs for her, and inform the Court and the parties defendant that Mercedes had died nine years before.

The death of Mercedes Valbuena in 1931 could, in no manner affect the validity of the tax sale conducted by the City Treasurer in 1937. It was not necessary for the Treasurer to notify her as delinquent taxpayer, of the intended sale of her property. It is true, that ordinarily, to enforce payment of delinquent real estate taxes, the Treasurer may seize and distrain personal property of the delinquent taxpayer and sell the same to satisfy the delinquency. In this manner, the office of the Treasurer comes into contact and establishes direct relations with the taxpayer. Said taxpayer comes to know that he or she is delinquent. However, in the City of Manila, under Section 2498 of the Revised Administrative Code, as amended by Act 4173, the City Treasurer need not seize personal properties but may go directly against the delinquent real property. He need not personally notify the delinquent taxpayer. Under Sec. 2497 of the Revised Administrative Code, taxes and penalties assessed against realty shall constitute a lien, enforceable against the property whether in the possession of the delinquent or any subsequent owner. All that the Treasurer is required to do by the law is to advertise the property for sale, post notices in public places and in the district where the real estate lies and publish that advertisement or notice thereof in a newspaper of general circulation, once a week for three consecutive weeks. All this, the City Treasurer has done. He even published the advertisement in three newspapers instead of only one as required by law. And he sent a personal notice to Mercedes Valbuena at her address appearing in his records notifying her that the period of redemption of the parcel of land that had been sold to Aurelio Reyes will expire on May 3, 1938, although the law does not require him to do so. So, the position taken by the plaintiffs-appellants that the tax sale of the property in question was invalid because Mercedes Valbuena was not personally notified thereof, is clearly untenable.

If the tax sale was valid and Aurelio Reyes validly acquired title to the land, then the plaintiffs-appellants would have no reason or right to question the validity of the court proceedings whereby Aurelio Reyes obtained a new certificate of title in lieu of the old title issued in the name of Mercedes Valbuena and which by a court order had been cancelled. The cancellation of the title of Mercedes who had ceased to be owner of the land and the issuance of a new title in the name of Aurelio Reyes who had validly acquired said land would be a matter of routine.

But for the satisfaction of the parties and possibly to render the law on this subject matter more clear, and if it could serve as a guide in future similar cases, we propose to consider and pass upon, tho' briefly, the proceedings had in the Fourth Branch of the Court of First Instance of Manila in relation with this case.

After Aurelio Reyes had received his definite deed of sale from the City Treasurer of Manila because the period of redemption of one year had expired, pursuant to the provisions of Sections 78 and 111 of the Land Registration Act No. 496, it was incumbent upon him to record his deed in the office of the Register of Deeds, have the old certificate of title in the name of Mercedes cancelled and a new one issued in his name. This, he did by filing his sworn motion in the Court of First Instance of Manila (Fourth Branch), which court set said motion for hearing, notifying Mercedes by mail.

Section 113 of Act No. 496 known as the Land Registration Law provides that all notices required by or given in pursuance of the provisions of said Act by the Clerk of Court after original registration shall be sent by mail to the person to be notified; Provided, however, that the court may in any case order a different or further service, by

publication or otherwise. All this, the Clerk of Court and later the Court itself did. A notice of the hearing was sent to Mercedes Valbuena by mail at her residence. When she failed to appear, the court ordered her appearance and required that the order be published in the newspaper, which was done. It was only after Mercedes failed to appear and Aurelio Reyes had submitted evidence in support of his motion that said motion was granted. The certificate of title in the name of Mercedes Valbuena was ordered cancelled and a new one was issued in the name of Aurelio Reyes. So, the court complied with the requirement of the law as to notice, acquired jurisdiction over the case and was authorized to order the cancellation of the title in the name of Mercedes and the issuance of a new certificate of title in favor of Aurelio Reyes.

In resume we hold that in the sale of real estate in the City of Manila to satisfy delinquent taxes, under the provisions of Section 2497 and section 2498 of the Revised Administrative Code, as amended by Act 4173, it is not necessary that the delinquent taxpayer or any one holding or owning the delinquent property be notified of the sale. It is sufficient for the validity of the tax sale that it is advertised and that said advertisement if accomplished by posting a notice at the main entrance of the public building and in a public and conspicuous place in the district in which the property lies, and by publication in a news paper.

Under sections 78, 111, and 113 of Act 496 known as the Land Registration Law, where one acquires, a valid deed or title to a property as a result of execution sale, tax sale, or any sale to enforce a lien, after the expiration of the period, if any, allowed by law for redemption, when said new owner goes to court and the office of the Register of Deeds to have his deed recorded and have a new certificate of title issued in his name, it is sufficient for purposes of notifying the former owner to surrender his certificate of title and show cause why it should not be cancelled, that the notification is effected by mail or by publication as the court may order; and if despite such notification by mail or by publication, he fails to appear and surrender his certificate of title, the court may validly order the cancellation of that certificate of title and the issuance of a new one in favor of the new owner.

In view of the foregoing, the order appealed from insofar as it dismisses the complaint, is hereby affirmed, with costs against the appellants

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, Reyes, and Torres, JJ., concur.

FERIA, J.:

I concur in the result.

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