

ENGRACIO FRANCIA, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND HO FERNANDEZ, RESPONDENTS.

G.R. No. 67649. June 28, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petitioner invokes legal and equitable grounds to reverse the questioned decision of the Intermediate Appellate Court, to set aside the auction sale of his property which took place on December 5, 1977, and to allow him to recover a 203 square meter lot which was sold at public auction to Ho Fernandez and ordered titled in the latter's name.

The antecedent facts are as follows:

Engracio Francia is the registered owner of a residential lot and a two-story house built upon it situated at Barrio San Isidro, now District of Sta. Clara, Pasay City, Metro Manila. The lot, with an area of about 328 square meters, is described and covered by Transfer Certificate of Title No. 4739 (37795) of the Registry of Deeds of Pasay City.

On October 15, 1977, a 125 square meter portion of Francia's property was expropriated by the Republic of the Philippines for the sum of P4,116.00 representing the estimated amount equivalent to the assessed value of the aforesaid portion.

Since 1963 up to 1977 inclusive, Francia failed to pay his real estate taxes. Thus, on December 5, 1977, his property was sold at public auction by the City Treasurer of Pasay City pursuant to Section 73 of Presidential Decree No. 464 known as the Real Property Tax Code in order to satisfy a tax delinquency of P2,400.00. Ho Fernandez was the highest bidder for the property.

Francia was not present during the auction sale since he was in Iligan City at that time helping his uncle ship bananas.

On March 3, 1979, Francia received a notice of hearing of LRC Case No. 1593-P "In re: Petition for Entry of Mew Certificate of Title" filed by Ho Fernandez, seeking the cancellation of TCT No. 4739 (37795) and the issuance in his name of a new certificate of title. Upon verification through his lawyer, Francia discovered that a Final Bill of Sale had been issued in favor of Ho Fernandez by the City Treasurer on December 11, 1978. The auction sale and the final bill of sale were both annotated at the back of TCT No. 4739 (37795) by the Register of Deeds.

On March 20, 1979, Francia filed a complaint to annul the auction sale. He later amended his complaint on January 24, 1980.

On April 23, 1981, the lower court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered dismissing the amended complaint and ordering:

"(a)

The Register of Deeds of Pasay City to issue a new Transfer Certificate of Title in favor of the defendant Ho Fernandez over the parcel of land including the improvements thereon, subject to whatever encumbrances appearing at the back of TCT No. 4739 (37795) and ordering the same TCT No. 4739 (37795) cancelled.

"(b)

The plaintiff to pay defendant Ho Fernandez the sum of P1,000.00 as attorney's fees."(p. 30, Record on Appeal)

The Intermediate Appellate Court affirmed the decision of the lower court in toto.

Hence, this petition for review.

Francia prefaced his arguments with the following assignments of grave errors of law:

I

RESPONDENT INTERMEDIATE APPELLATE COURT COMMITTED A GRAVE ERROR OF LAW IN NOT HOLDING THAT PETITIONER'S OBLIGATION TO PAY P2,400.00 FOR SUPPOSED TAX DELINQUENCY WAS SET-OFF BY THE AMOUNT OF P4,116.00 WHICH THE GOVERNMENT IS INDEBTED TO THE FORMER.

II

RESPONDENT INTERMEDIATE APPELLATE COURT COMMITTED A GRAVE AND SERIOUS ERROR IN NOT HOLDING THAT PETITIONER WAS NOT PROPERLY AND DULY NOTIFIED THAT AN AUCTION SALE OF HIS PROPERTY WAS TO TAKE PLACE ON DECEMBER 5, 1977 TO SATISFY AN ALLEGED TAX DELINQUENCY OF P2,400.00.

III

RESPONDENT INTERMEDIATE APPELLATE COURT FURTHER COMMITTED A SERIOUS ERROR AND GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE PRICE OF P2,400.00 PAID BY RESPONDENT HO FERNANDEZ WAS GROSSLY INADEQUATE AS TO SHOCK ONE'S CONSCIENCE AMOUNTING TO FRAUD AND A DEPRIVATION OF PROPERTY WITHOUT DUE PROCESS OF LAW, AND CONSEQUENTLY, THE AUCTION SALE MADE THEREOF IS VOID. (pp. 10, 17, 20-21, Rollo)

We gave due course to the petition for a more thorough inquiry into the petitioner's allegations that his property was sold at public auction without notice to him and that the price paid for the property was shockingly inadequate, amounting to fraud and deprivation without due process of law.

A careful review of the case, however, discloses that Mr. Francia brought the problems raised in his petition upon himself. While we commiserate with him at the loss of his property, the law and the facts militate against the grant of his petition. We are constrained to dismiss it.

Francia contends that his tax delinquency of P2,400.00 has been extinguished by legal compensation. He claims that the government owed him P4,116.00 when a portion of his land was expropriated on October 15, 1977. Hence, his tax obligation had been set-off by operation of law as of October 15, 1977.

There is no legal basis for the contention. By legal compensation, obligations of persons, who in their own right

are reciprocally debtors and creditors of each other, are extinguished (Art. 1278, Civil Code). The circumstances of the case do not satisfy the requirements provided by Article 1279, to wit:

"(1) that each one of the obligors be bound principally and that he be at the same time a principal creditor of the other;

x x x

x x x

x x x

"(3) that the two debts be due.

x x x

x x x

x x x

This principal contention of the petitioner has no merit. We have consistently ruled that there can be no off-setting of taxes against the claims that the taxpayer may have against the government. A person cannot refuse to pay a tax on the ground that the government owes him an amount equal to or greater than the tax being collected. The collection of a tax cannot await the results of a lawsuit against the government.

In the case of *Republic v. Mambulao Lumber Co.* (4 SCRA 622), this Court ruled that Internal Revenue Taxes can not be the subject of set-off or compensation. We stated that:

"A claim for taxes is not such a debt, demand, contract or judgment as is allowed to be set-off under the statutes of set-off, which are construed uniformly, in the light of public policy, to exclude the remedy in an action or any indebtedness of the state or municipality to one who is liable to the state or municipality for taxes. Neither are they a proper subject of recoupment since they do not arise out of the contract or transaction sued on. x x x (80 C.J.S., 73-74). 'The general rule based on grounds of public policy is well-settled that no set-off admissible against demands for taxes levied for general or local governmental purposes. The reason on which the general rule is based, is that taxes are not in the nature of contracts between the party and party but grow out of duty to, and are the positive acts of the government to the making and enforcing of which, the personal consent of individual taxpayers is not required, x x x'"

We stated that a taxpayer cannot refuse to pay his tax when called upon by the collector because he has a claim against the governmental body not included in the tax levy.

This rule was reiterated in the case of *Cordero v. Gonda* (18 SCRA 331) where we stated that: "x x x internal revenue taxes can not be the subject of compensation: Reason: government and taxpayer 'are not mutually creditors and debtors of each other' under Article 1278 of the Civil Code and a 'claim for taxes is not such a debt, demand, contract or judgment as is allowed to be set-off.'"

There are other factors which compel us to rule against the petitioner. 'The tax was due to the city government while the expropriation was effected by the national government. Moreover, the amount of P4,116.00 paid by the national government for the 125 square meter portion of his lot was deposited with the Philippine National Bank long before the sale at public auction of his remaining property. Notice of the deposit dated September 28, 1977

was received by the petitioner on September 30, 1977. The petitioner admitted in his testimony that he knew about the P4,116.00 deposited with the bank but he did not withdraw it. It would have been an easy matter to withdraw P2,400.00 from the deposit so that he could pay the tax obligation thus aborting the sale at public auction.

Petitioner had one year within which to redeem his property although, as well be shown later, he claimed that he pocketed the notice of the auction sale without reading it.

Petitioner contends that "the auction sale in question was made without complying with the mandatory provisions of the statute governing tax sale. No evidence, oral or otherwise, was presented that the procedure outlined by law on sales of property for tax delinquency was followed, x x x Since defendant Ho Fernandez has the affirmative of this issue, the burden of proof therefore rests upon him to show that plaintiff WHS duly and properly notified x x x." (Petition for Review, Rollo, p. 18; italics supplied)

We agree with the petitioner's claim that Ho Fernandez, the purchaser at the auction sale, has the burden of proof to show that there was compliance with all the prescribed requisites for a tax sale.

The case of *Valencia v. Jimenez* (11 Phil. 492) laid down the doctrine that:

x x x

x x x

x x x

"x x x [D]ue 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." (Italics supplied)

There is no presumption of the regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale. (*Camo v. Riosa Boyco*, 29 Phil. 437; *Denoga v. Insular Government*, 19 Phil. 261). This is actually an exception to the rule that administrative proceedings are presumed to be regular.

But even if the burden of proof lies with the purchaser to show that all legal prerequisites have been complied with, the petitioner can not, however, deny that he did receive the notice for the auction sale. The records sustain the lower court's finding that:

"[T]he plaintiff claimed that it was illegal and irregular. He insisted that he was not properly notified of the auction sale, surprisingly, however, he admitted in his testimony that he received the letter dated November 21, 1977 (Exhibit "I") as shown by his signature (Exhibit "I-A") thereof He claimed further that he was not present on December 5, 1977 the date of the auction sale because he went to Iligan City. As long as there was substantial compliance with the requirements of the notice, the validity of the auction sale can not be assailed, x x x."

We quote the following testimony of the petitioner on cross-examination, to wit:

"Q. My question to you is this letter marked as Exhibit I for Ho Fernandez notified you that the property in question shall be sold at public auction to the highest bidder on December 5, 1977 pursuant to Sec. 74 of PD 464. Will you tell the Court whether you received the original of this letter?

"A. I just signed it because I was not able to read the same. It was just sent by mail carrier.

"Q. So you admit that you received the original of Exhibit I and you signed upon receipt thereof but you did not read the contents of it?

"A. Yes, sir, as I was in a hurry.

"Q. After you received that original where did you place it?

"A. I placed it in the usual place where I place my mails."

Petitioner, therefore, was notified about the auction sale. It was negligence on his part when he ignored such notice. By his very own admission that he received the notice, his now coming to court assailing the validity of the auction sale loses its force.

Petitioner's third assignment of grave error likewise lacks merit. As a general rule, gross inadequacy of price is not material (*De Leon v. Salvador*, 36 SCRA 567; *Ponce de Leon v. Rehabilitation Finance Corporation*, 36 SCRA 289; *Tolentino v. Agcaoili*, 91 Phil. 917 Unrep.). See also *Barrozo Vda. de Gordon v. Court of Appeals* (109 SCRA 388) we held that "alleged gross inadequacy of price is not material when the law gives the owner the right to redeem as when a sale is made at public auction, upon the theory that the lesser the price, the easier it is for the owner to effect redemption." In *Velasquez v. Coronel* (5 SCRA 985), this Court held:

"x x x [Respondent treasurer now claims that the prices for which the lands were sold are unconscionable considering the wide divergence between their assessed values and the amounts for which they had been actually sold. However, while in ordinary sales for reasons of equity a transaction may be invalidated on the ground of inadequacy of price, or when such inadequacy shocks one's conscience as to justify the courts to interfere, such does not follow when the law gives to the owner the right to redeem, as when a sale is made at public auction, upon the theory that the lesser the price the easier it is for the owner to effect the redemption. And so it was aptly said: 'When there is the right to redeem, inadequacy of price should not be material, because the judgment debtor may reacquire the property or also sell his right to redeem and thus recover the loss he claims to have suffered by reason of the price obtained at the auction sale.'¹"

The reason behind the above rulings is well enunciated in the case of *Hilton et. ux. v. De Long, et al.* (188 Wash. 162, 61 P. 2d. 1290):

"If mere inadequacy of price is held to be a valid objection to a sale for taxes, the collection of taxes in this manner would be greatly embarrassed, if not rendered altogether impracticable. In *Black on Tax Titles* (2nd Ed.) 238, the correct rule is stated as follows: 'where land is sold for taxes, the inadequacy of the price given is not a valid objection to the sale.'¹ This rule arises from necessity, for, if a fair price for the land were essential to the sale, it would be useless to offer the property. Indeed, it is notorious that the prices habitually paid by purchasers at tax sales are grossly out of proportion to the value of the land." (*Rothchild Bros. v. Rollinger*, 32 Wash. 307, 73 P. 367, 369).

In this case now before us, we can aptly use the language of *McGuire, et al. v. Bean, et al.* (267 P. 555):

"Like most cases of this character there is here a certain element of hardship from which we would be glad to relieve, but do so would unsettle long-established rules and lead to uncertainty and difficulty in the collection

of taxes which are the life blood of the state. We are convinced that the present rules are just, and that they bring hardship only to those who have invited it by their own neglect."

We are inclined to believe the petitioner's claim that the value of the lot has greatly appreciated in value. Precisely because of the widening of Buendia Avenue in Pasay City, which necessitated the expropriation of adjoining areas, real estate values have gone up in the area. However, the price quoted by the petitioner for a 203 square meter lot appears quite exaggerated. At any rate, the foregoing reasons which answer the petitioner's claims lead us to deny the petition.

And finally, even if we are inclined to give relief to the petitioner on equitable grounds, there are no strong considerations of substantial justice in his favor. Mr. Francia failed to pay his taxes for 14 years from 1963 up to the date of the auction sale. He claims to have pocketed the notice of sale without reading it which, if true, is still an act of inexplicable negligence. He did not withdraw from the expropriation payment deposited with the Philippine National Bank an amount sufficient to pay for the back taxes. The petitioner did not pay attention to another notice sent by the City Treasurer on November 3, 1978, during the period of redemption, regarding his tax delinquency. There is furthermore no showing of bad faith or collusion in the purchase of the property by Mr. Fernandez. The petitioner has no standing to invoke equity in his attempt to regain the property by belatedly asking for the annulment of the sale.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition for review is DISMISSED. The decision of the respondent court is affirmed.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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