



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FILINVEST DEVELOPMENT
CORPORATION,

Petitioner,

G.R. No. 253115

Present:

LEONEN, J.,
Chairperson,
CARANDANG,
ZALAMEDA,
ROSARIO, and
LOPEZ J.,* JJ.

- versus -

NILO DEL ROSARIO,

Respondent.

Promulgated:

September 15, 2021

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DECISION

CARANDANG, J.:

This Court resolves a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated January 27, 2020 and the Resolution³ dated July 23, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 108313, which dismissed petitioner Filinvest Development Corporation's (Filinvest) appeal and denied its motion for reconsideration, respectively.

Facts of the Case

This case originated from a petition for confirmation of final bill of sale and entry of new certificate of title⁴ filed by respondent Nilo Del Rosario before the Regional Trial Court of Quezon City, Branch 225, docketed as LRC Case No. R-QZN-15-06922-LR.

* Designated as Additional Member per S.O. No. 2834 dated July 15, 2021.

¹ *Rollo*, pp. 10-30.

² Penned by Associate Justice Myra V. Garcia-Fernandez, with the concurrence of Associate Justices Japar B. Dimaampao (now a Member of this Court) and Perpetua Susana T. Atal-Paño; id. at 39-43.

³ Id. at 108-109.

⁴ Id. at 110-113.

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Filinvest was the owner of a parcel of land located at Lot No. 18, Block No. 6 PCS-13-001193, Brgy. Silangan, Capitol, Quezon City with an area of 173 square meters and covered by Transfer Certificate of Title (TCT) No. N-375865.⁵ Filinvest was delinquent in paying the subject land's real estate taxes. Hence, a public auction was held on October 3, 2013, wherein the subject property was awarded to respondent as the highest bidder for the amount of ₱23,602.53. On November 18, 2013, the Office of the City Treasurer issued a Certificate of Sale of Delinquent Property to Purchaser.⁶ After the lapse of one-year, Filinvest failed to redeem the subject property. A Final Bill of Sale⁷ was issued on March 24, 2015.

For failure of Filinvest to surrender the TCT to respondent, the latter filed the instant petition invoking the provisions of Section 75 of Presidential Decree No. 1529 and Republic Act No. (R.A.) 7160 praying that: (1) the ownership of the subject property covered by TCT No. N-375865 of the Register of Deeds of Quezon City be confirmed and consolidated in favor of respondent; (2) to order the Register of Deeds of Quezon City, after the payment of fee prescribed by law, to admit the registration of the Final Bill of Sale, thereby cancelling TCT No. N-375865 in the name of Filinvest and issue in its stead a new Certificate of Title in the name of respondent; (3) to declare the Owner's Duplicate of TCT No. N-375865 which is still in possession of the previous owner, null and void; and (4) to issue a writ of possession against Filinvest, its assigns or any other third party claimant/possessors occupying the subject premises.⁸

Filinvest countered that the subject property was sold to Spouses Danilo and Milagros Cabrerros (Spouses Cabrerros).⁹ Hence, TCT No. N-375865 was released to buyer-spouses for registration. However, since the transaction is very old and not much available documents are still existing, no further details were available.¹⁰ Further, Filinvest executed a provisional registration in favor of Spouses Cabrerros.¹¹ It also claimed that they did not receive notices from the City Treasurer's Office.¹²

Respondent presented Ms. Marilyn C. Ferolino from the Office of Real Estate Division, City Treasurer's Office, Quezon City. She declared that the City Treasurer's Office sent a First Notice of Delinquency to Filinvest on June 3, 2013, and a Final Notice of Delinquency on July 25, 2013, presenting thereof the proofs of service. Despite the notices sent to Filinvest, it still failed to pay its taxes. Hence, their office issued a Warrant of Levy. Ms. Ferolino further stated that prior to the auction sale, they sent notices of statement of delinquency, final notice, and warrant of levy to Filinvest and caused the

⁵ Id. at 114-116.

⁶ Id. at 118.

⁷ Id. at 119-121.

⁸ Id. at 111-112.

⁹ Id. at 68.

¹⁰ Id. at 12.

¹¹ Id. at 22.

¹² Id. at 40.

publication and posting thereof. A Notice of Sold Real Property dated October 21, 2013 was likewise sent to Filinvest, although no proof of service was presented. Despite the notice, Filinvest failed to redeem the property within the one-year period.¹³

Ruling of the Regional Trial Court

On November 29, 2016, the Regional Trial Court (RTC) issued a Decision¹⁴ granting the petition, the dispositive portion reads:

WHEREFORE, the petition is **granted**. The tax delinquency sale of the lot registered under the name of Filinvest Dev't. Corp., and covered by Transfer Certificate of Title No. N-375865, held at the Quezon City Hall on October 3, 2013 in favor of petitioner Nilo Del Rosario is **confirmed**.

Also, the registered owner, Filinvest Dev't. Corp., is ordered to surrender to the Registry of Deeds of Quezon City its duplicate copy of Transfer Certificate of Title No. N-375865 within ten (10) days from receipt of this Decision. The Registry of Deeds of Quezon City is ordered to **cancel** Transfer Certificate of Title No. N-375865 in the name of Filinvest Dev't. Corp. and **issue a new one** in its stead under the petitioner's name, after the latter's compliance with the administrative requirements and payment of necessary fees.¹⁵ (Emphasis in the original)

There being no evidence on record that the sale was nullified, the RTC confirmed the tax delinquency sale of the subject property, transferring ownership and possession thereof to respondent. It also ordered the cancellation of TCT No. N-375865 in the name of Filinvest and ordered the Registry of Deeds of Quezon City to issue a new one in favor of respondent.¹⁶

Filinvest filed an appeal to the CA.

Ruling of the Court of Appeals

In its Decision¹⁷ dated January 27, 2020, the CA denied the appeal and affirmed the Decision of the RTC. The CA ruled that Filinvest's arguments as to the lack of notice of the tax delinquency and inadequacy of the price in the auction sale cannot be entertained by the CA due to non-compliance by Filinvest with Section 267 of R.A. 7160, otherwise known as the "Local Government Code" (LGC) requiring Filinvest to institute an action assailing the validity of sale at public auction or that the latter paid the required deposit under Section 267 of the LGC. For failure to fulfill these requirements, Filinvest does not have the legal right to question the validity of the sale at public auction. Moreover, the CA did not consider Filinvest's claim that

¹³ Id. at 68-69.

¹⁴ Penned by Presiding Judge Maria Luisa Lesle G. Gonzales-Betic; id. at 67-72.

¹⁵ Id. at 72.

¹⁶ Id.

¹⁷ Supra note 2.

buyer-spouses Cabrerros should have been given notice regarding the tax proceedings because the provisional registration of title in their favor was annotated on the TCT. The CA held that only the registered owner of the property is deemed the taxpayer who is entitled to a notice of delinquency relative to the tax sale.¹⁸

Filinvest moved for reconsideration but it was denied in the Resolution¹⁹ dated July 23, 2020.

Proceedings before this Court

Hence, this Petition for Review on *Certiorari* filed by Filinvest.

Filinvest's Arguments

In this petition, Filinvest argues that the CA erred in applying Section 267 of the LGC, as this issue had been settled in the case of *Sps. Plaza v. Lustiva*²⁰ (*Plaza*), where the Supreme Court ruled that the deposit requirement under Section 267 of the LGC applies only to initiatory actions assailing the validity of tax sales. The case filed by respondent is for the confirmation of final bill of sale and entry of new certificate of title and not an action for annulment of a tax sale initiated by Filinvest. Hence, Filinvest need not comply with the requirements under Section 267 before the courts can take cognizance of the issue on the validity of the tax auction sale raised as a defense by Filinvest.²¹

In addition, Filinvest claims that it no longer has in its possession TCT No. N-375865 which was permanently released to Spouses Cabrerros upon their full payment of the purchase price for the property. This is supported by the annotation of provisional registration on the title. Filinvest should not have been ordered to surrender the owner's duplicate copy of the TCT since it is no longer in its possession, custody and control. Filinvest also contends that there was failure to prove that it was notified of the tax delinquency and subsequent proceedings in relation to the tax delinquency sale. Filinvest changed its corporate address in October 2012, almost a year before the purported Statement of Delinquency was sent in June 2013; the pertinent notices were likewise sent to its old office address in San Juan City, instead of its current address in Taguig City. Further, gross inadequacy of the purchase price rendered the auction sale as invalid. The City Treasurer sold the entire property for the sum ₱23,602.53 or just 9% of its fair market value of ₱259,500.00 as indicated in the tax declaration.²²

Filinvest asserts that notices on the delinquency/auction sale should be served on Spouses Cabrerros, the purchasers of the property, and this was even

¹⁸ *Rollo*, pp. 41-42.

¹⁹ *Supra* note 3.

²⁰ 728 Phil. 359 (2014).

²¹ *Rollo*, pp. 17-19.

²² *Id.* at 22-27.

expressly recognized by the CA by virtue of the Provisional Registration annotated on the title itself. The absence of such notices to Spouses Cabrerros likewise warrants the invalidation of the sale to respondent of the subject property.²³

Respondent's Comment

Respondent claims that Filinvest has no legal standing to participate in this case since it is not the owner of the subject property. If Filinvest wants to litigate on behalf of Spouses Cabrerros, it should have presented a Special Power of Attorney to appear in this case. Respondent avers that Filinvest is misleading the Court when it invoked the case of *Solco v. Megaworld*²⁴ (*Solco*) and *Plaza* cases to support its assertion that it does not need to comply with Section 267 of R.A. 7160. On the contrary, the *Solco* case required a deposit before the trial court, while *Plaza* is not at fours with this case as it involves a complaint for injunction, damages and Temporary Restraining Order.²⁵

Respondent posits that the CA correctly ruled that notices were duly received by Filinvest by a person of sufficient discretion. While it claims that pertinent notices were sent to its old office address in San Juan City instead of its current address in Taguig City, Filinvest did not adduce any proof of its change of address. Further, the initial hearing of the case was sent to its old address in San Juan and Filinvest was able to appear at the hearing and actively participated in the case.²⁶

Finally, respondent contends that the public auction is valid and that Spouses Cabrerros are not entitled to any notice of the public auction sale. The law only requires the Treasurer's office to notify the registered owner and not the claimants of the property found in the annotations. Filinvest is the registered owner of the property as stated in the TCT. Further, the annotation does not show that the sale of the subject property was consummated since the annotation is provisional. Filinvest did not even adduce documentary evidence to prove the alleged sale of the subject property.²⁷

Ruling of the Court

The petition is meritorious.

The public auction of land to satisfy delinquency in the payment of real estate tax derogates or impinges on property rights and due process. Thus, the steps prescribed by law are mandatory and must be strictly followed; if not, the sale of the real property is invalid and does not make its purchaser the new owner. Strict adherence to the statutes governing tax sales is imperative not

²³ Id. at 28-29.

²⁴ 827 Phil. 77, 97 (2018).

²⁵ *Rollo*, pp. 239-240.

²⁶ Id. at 240-244.

²⁷ Id. at 244-250.



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.²⁸

The deposit requirement under Section 267 of the LGC need not be complied first by Filinvest before it can question the validity of the tax sale.

The CA dismissed Filinvest's appeal for the latter's failure to pay the required deposit under Section 267 of the LGC; hence, Filinvest does not have the legal right to question the validity of the proceedings leading to the sale at public auction arising from its tax delinquency.

Section 267 of the LGC states:

Section 267. Action Assailing Validity of Tax Sale. –

No court shall entertain any action assailing the validity or any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action. The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

Neither shall any court declare a sale at public auction invalid by reason or irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired. (Emphasis and underscoring in the original)

In the case of *Sps. Plaza v. Lustiva*²⁹ cited by Filinvest in the present Petition, the Court clarified that the deposit requirement applies only to initiatory actions assailing the validity of tax sales, as the section makes use of term "entertain" and "institution." The deposit is a jurisdictional requirement which must be satisfied before the court can entertain any action assailing the validity of the public auction sale.³⁰

In the case at bar, it was respondent who filed a petition for confirmation of final bill of sale and entry of new certificate of title. The issue as to the nullity of the public auction sale was raised by Filinvest merely as a defense and in no way converted the action for annulment of a tax sale. Hence,

²⁸ *Cruz v. City of Makati*, G.R. No. 210894, September 12, 2018, citing *Salva v. Magpile*, G.R. No. 220440, November 8, 2017.

²⁹ Supra note 17.

³⁰ Supra note 17 at 369.

Filinvest need not make a deposit to the court before the latter can question the validity of the tax sale.

The requirements for tax delinquency sale under the LGC are mandatory.

Sections 254, 258, and 260 of the LGC provide:

Section 254. *Notice of Delinquency in the Payment of the Real Property Tax.* – (a) When the real property tax or any other tax imposed under this Title becomes delinquent, the provincial, city or municipal treasurer shall immediately cause a notice of the delinquency to be posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each barangay of the local government unit concerned. The notice of delinquency shall also be published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality.

(b) Such notice shall specify the date upon which the tax became delinquent and shall state that personal property may be distrained to effect payment. It shall likewise state that at any time before the distraint of personal property, payment of the tax with surcharges, interests and penalties may be made in accordance with the next following section, and unless the tax, surcharges and penalties are paid before the expiration of the year for which the tax is due except when the notice of assessment or special levy is contested administratively or judicially pursuant to the provisions of Chapter 3, Title II, Book II of this Code, the delinquent real property will be sold at public auction, and the title to the property will be vested in the purchaser, subject, however, to the right of the delinquent owner of the property or any person having legal interest therein to redeem the property within one (1) year from the date of sale.

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Section 258. *Levy on Real Property.* – After the expiration of the time required to pay the basic real property tax or any other tax levied under this Title, real property subject to such tax may be levied upon through the issuance of a warrant on or before, or simultaneously with, the institution of the civil action for the collection of the delinquent tax. The provincial or city treasurer, or a treasurer of a municipality within the Metropolitan Manila Area, as the case may be, when issuing a warrant of levy shall prepare a duly authenticated certificate showing the name of the delinquent owner of the property or person having legal interest therein, the description of the property, the amount of the tax due and the interest thereon. The warrant shall operate with the force of a legal execution throughout the province, city or a municipality within the Metropolitan Manila Area. The warrant shall be mailed to or served upon the delinquent owner of the real property or person having

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legal interest therein, or in case he is out of the country or cannot be located, the administrator or occupant of the property. At the same time, written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the Registrar of Deeds of the province, city or municipality within the Metropolitan Manila Area where the property is located, who shall annotate the levy on the tax declaration and certificate of title of the property, respectively.

The levying officer shall submit a report on the levy to the sanggunian concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein.

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Section 260. *Advertisement and Sale.* – Within thirty (30) days after service of the warrant of 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 tax delinquency and expenses of sale. The advertisement shall be effected by posting a notice at the main entrance of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the barangay where the real property is located, and by publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall specify the amount of the delinquent tax, the interest due thereon and expenses of sale, the date and place of sale, the name of the owner of the real property or person having legal interest therein, and a description of the property to be sold. At any time before the date fixed for the sale, the owner of the real property or person having legal interest therein may stay the proceedings by paying the delinquent tax, the interest due thereon and the expenses of sale. The sale 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 specified in the notice of the 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. The local treasurer shall likewise prepare and deliver to the purchaser a certificate of sale which shall contain the name of the purchaser, a description of the property sold, the amount of the delinquent tax, the interest due thereon, the expenses of sale and a brief description of the proceedings: Provided, however, That proceeds of the sale in excess of the delinquent tax, the interest due thereon, and the expenses of sale shall be remitted to the owner of the real property or person having legal interest therein.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of



collection through the remedies provided for in this Title, including the expenses of advertisement and sale.

Being still the registered owner of the subject property, Filinvest has the legal standing to assail the validity of the tax sale involving its property.

The evidence on record shows that there was failure to comply with the above-cited mandatory requirements under the LGC for a valid tax delinquency sale.

While there is evidence as to the publication requirement, the notice of delinquency having been published once a week for two consecutive weeks in the *Philippine Star*,³¹ respondent failed to prove that the posting requirement was satisfied. In the Notice of Posting³² presented as evidence, it merely instructed the Barangay Captain to facilitate the posting of the notice of delinquency. However, there is no other proof to show that the notice of delinquency was indeed posted at: (1) the main entrance of city hall; and (2) in a publicly accessible and conspicuous place in each barangay of the local government unit concerned, as provided in Sections 254 and 260 of the LGC.

There is no sufficient proof to show that Filinvest, being the registered owner of the subject property, received the warrant of levy, which is a clear violation of Section 258. Respondent submitted a Proof of Service³³ to show receipt thereof by Filinvest. A perusal of the Proof of Service reveals that it was received by a certain Toni Vilar. Respondent failed to explain the relation of Toni Vilar to Filinvest, considering the latter's allegation that it has moved its office from San Juan to Taguig City since 2012.

Also, the other Proofs of Service submitted by respondent, as to the receipt of the first notice of delinquency,³⁴ final notice of delinquency,³⁵ and final notice of exercise right of redemption,³⁶ show that these notices were received by certain persons whose relation to Filinvest were not also explained. For instance, in the first notice of delinquency, it was allegedly received by Irene Enriquez. In the final notice of delinquency, there was no name mentioned but it was noted therein that it is a "*vacant lot Daniel St.*"³⁷ While in the final notice of exercise right of redemption, a copy was left with a certain Kevin Gonzales. Evident is the fact that these Proofs of Service were not even signed by those persons who received it.

The court cannot, thus, nonchalantly give weight to these Proofs of Service to sufficiently prove actual receipt of the notices by Filinvest, failure to substantiate that those persons were duly authorized to receive correspondences for Filinvest.

³¹ *Rollo*, pp. 159-162.

³² *Id.* at 163.

³³ *Id.* at 156.

³⁴ *Id.* at 152.

³⁵ *Id.* at 154.

³⁶ *Id.* at 167.

³⁷ *Id.* at 154.



Spouses Cabrerros should have been served with the notices of tax delinquency and warrant of levy.

Filinvest insists Spouses Cabrerros should have been notified of the tax delinquency and the tax sale, having purchased the subject property from Filinvest. This is supported by the annotation of provisional registration on the title.

Contrary to respondent's assertion, the fact that it is only a "provisional" registration does not mean that the sale of the subject property to Spouses Cabrerros had not been consummated. The word "provisional" does not pertain to the consummation of the sale. Provisional registration refers to the entry of an instrument in the primary entry book for registered land pending reconstitution of the original copy of a certificate of title.

It is clear in the annotation on page 2³⁸ of TCT No. N-375865 that there was a sale executed by Filinvest Development Corporation in favor Spouses Cabrerros for the sum of ₱132,376.14 on July 21, 1988. However, the title of Spouses Cabrero will be issued upon reconstitution of the original title. There is also an annotation therein of a real estate mortgage dated July 21, 1988 executed by Spouses Cabrerros in favor of Filinvest Development Corp., likewise inscribed on January 4, 1990. And another annotation of cancellation of Entry No. 32, *i.e.*, the real estate mortgage. This could only mean that Spouses Cabrerros had fully paid the purchase price and they are now the owners of the subject property. These annotations on page 2 of TCT No. 375865 are Exhibits "1 to 3" offered in evidence by Filinvest before the trial court.³⁹

Being the new owners thereof, Spouses Cabrerros clearly have legal interest in the property and they should have been served with a copy of the warrant of levy and the other notices of tax delinquency. It should be noted that the annotation of the sale and mortgage was inscribed on January 4, 1990, long before the tax sale or public auction sale on October 3, 2013. The first notice of delinquency was dated June 3, 2013, while the warrant of levy was dated August 20, 2013.

The tax sale is null and void.

In consonance with the strict and mandatory character of the requirements for validity of a tax delinquency sale, well-established is the rule that the presumption of regularity in the performance of a duty enjoyed by public officials, cannot be applied to those involved in the conduct of a tax sale.⁴⁰

³⁸ Id. at 115.

³⁹ Id. at 70.

⁴⁰ *Solco v. Megaworld*, supra note 21 at 97.



In *Corporate Strategies Development Corp. v. Agojo*,⁴¹ the Court articulated that:

[T]he burden to prove compliance with the validity of the proceedings leading up to the tax delinquency sale is incumbent upon the buyer or the winning bidder, which, in this case, is the respondent. This is premised on the rule that a sale of land for tax delinquency is in derogation of property and due process rights of the registered owner. In order to be valid, the steps required by law must be strictly followed. The burden to show that such steps were taken lies on the person claiming its validity, for the Court cannot allow mere presumption of regularity to take precedence over the right of a property owner to due process accorded no less than by the Constitution.⁴² (Citation omitted)

Therefore, considering the failure to comply with the mandatory requirements under Sections 254, 258, and 260 of the LGC for a valid tax delinquency sale, specifically as to the posting requirements and the proof of actual receipt of the various notices and warrant of levy by the registered owner of the property or a person having legal interest therein, the Court renders the tax sale null and void. To reiterate, Spouses Cabrerros should have been given actual notices of the delinquency sale, being now the actual owners of the subject property, as can be clearly seen in the annotations inscribed in TCT No. N-375865.

Respondent, as purchaser in said null and void tax sale, cannot be considered as the new owner of the subject property. Consequently, respondent cannot be issued a new transfer certificate of title in his name.

WHEREFORE, premises considered the instant petition is **GRANTED**. The Decision dated January 27, 2020 and the Resolution dated July 23, 2020 of the Court of Appeals in CA-G.R. CV No. 108313 are **SET ASIDE**. The tax sale conducted on October 3, 2013 is hereby declared **NULL** and **VOID**.

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

⁴¹ 747 Phil. 607 (2014).

⁴² Id. at 620.

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice