

SECOND DIVISION

[G.R. No. 171033, August 03, 2010]

CITY MAYOR, CITY TREASURER, CITY ASSESSOR, ALL OF QUEZON CITY, AND ALVIN EMERSON S. YU, PETITIONERS, VS. RIZAL COMMERCIAL BANKING CORPORATION, RESPONDENT.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* assailing the Decision^[1] dated December 6, 2005, of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 101, Quezon City, in SP. Civil Action Q-04-53522 for Mandamus with Prayer for Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction.

The procedural and factual antecedents are as follows:

The facts are undisputed. The spouses Roberto and Monette Naval obtained a loan from respondent Rizal Commercial Banking Corporation, secured by a real estate mortgage of properties covered by Transfer Certificate of Title (TCT) Nos. N-167986, N-167987, and N-167988. In 1998, the real estate mortgage was later foreclosed and the properties were sold at public auction with respondent as the highest bidder. The corresponding Certificates of Sale were issued in favor of respondent on August 4, 1998. However, the certificates of sale were allegedly registered only on February 10, 2004.

Meanwhile, on May 30, 2003, an auction sale of tax delinquent properties was conducted by the City Treasurer of Quezon City. Included in the properties that were auctioned were two (2) townhouse units covered by TCT Nos. N-167986 and N-167987 and the parcel of land covered by TCT No. N-167988. For these delinquent properties, Alvin Emerson S. Yu was adjudged as the highest bidder. Upon payment of the tax delinquencies, he was issued the corresponding Certificate of Sale of Delinquent Property.

On February 10, 2004, the Certificate of Sale of Delinquent Property was registered with the Office of the Register of Deeds of Quezon City.

On June 10, 2004, respondent tendered payment for all of the assessed tax delinquencies, interest, and other costs of the subject properties with the Office of the City Treasurer, Quezon City. However, the Office of the City Treasurer refused to accept said tender of

payment.

Undeterred, on June 15, 2004, respondent filed before the Office of the City Treasurer a Petition^[2] for the acceptance of its tender of payment and for the subsequent issuance of the certificate of redemption in its favor. Nevertheless, respondent's subsequent tender of payment was also denied.

Consequently, respondent filed a Petition for Mandamus with Prayer for Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction^[3] before the RTC. Petitioners contended, among other things, that it had until February 10, 2005, or one (1) year from the date of registration of the certificate of sale on February 10, 2004, within which to redeem the subject properties, pursuant to Section 78 of Presidential Decree (P.D.) No. 464 or the Real Property Tax Code.

After the parties filed their respective pleadings, the RTC initially denied the petition in the Order^[4] dated December 6, 2004. In denying the petition, the RTC opined that respondent's reliance on Section 78 of P.D. No. 464 as basis of the reckoning period in counting the one (1) year period within which to redeem the subject properties was misplaced, since P.D. No. 464 has been expressly repealed by Republic Act (R.A.) No. 7160, or the Local Government Code.

Aggrieved, respondent filed a Motion for Reconsideration^[5] questioning the Order, arguing that:

A.

The Honorable Court committed grave error when it summarily denied the petition for Mandamus filed by herein petitioner during the hearing on the Motion for Issuance of Temporary Restraining Order and/or Issuance of a Writ of Preliminary Injunction without conducting a hearing or trial on petition for mandamus. The order of the court effectively denied petitioner its right to due process.

B.

The principal action subject of the petition for mandamus is the annulment of the auction sale. Alternatively, petitioner sought the right to consign the redemption price, inclusive of interests on the basis that it was exercising the right of redemption within the period provided by law. The Honorable Court ruled only on the repeal of Presidential Decree No. 464 and not the issues/grounds raised in the temporary restraining order/writ of preliminary injunction nor on the issues raised in the petition for mandamus, contrary to law.

C.

The Honorable Court committed grave error when it sustained the validity of the actions of the City Treasurer with respect to the auction sale of the properties subject of the petition and its unlawful refusal to accept the redemption price of the properties subject of the auction sale contrary to the provisions of Quezon City Ordinance No. 91-93, in relation to Presidential Decree No. 464 and the Local Government Code and DOF Assessment Regulations No. 7-85.

D.

The Honorable Court committed grave error when it denied petitioner its right to consign the payment of the redemption price of the properties sold in auction sale without a determination of the factual issues of the case, contrary to due process.

E.

The legal and factual question of the validity of the notice of the auction sale cannot be summarily dismissed without hearing and ruling on the allegation of lack of notice and fraud raised by petitioner in its petition for mandamus.^[6]

On December 6, 2005, the RTC rendered a Decision^[7] granting the petition, the decretal portion of which reads:

WHEREFORE, premises considered, the above-captioned petition for mandamus is hereby granted.

Accordingly, the public respondents are ordered to accept the petitioner's tender of redemption payment, to issue the corresponding certificate of redemption in the name of the petitioner and to cancel the certificate of tax sale issued to the private respondent.

SO ORDERED.^[8]

In granting the petition, the RTC ratiocinated that the counting of the one (1) year redemption period of tax delinquent properties sold at public auction should start from the date of registration of the certificate of sale or the final deed of sale in favor of the purchaser, so that the delinquent registered owner or third parties interested in the redemption may be notified that the delinquent property had been sold, and that they have one (1) year from said constructive notice of the sale within which to redeem the property.

The RTC was also of the opinion that Section 261, R.A. No. 7160 did not amend Section 78 of P.D. No. 464.

Hence, the petition raising the following arguments:

I

THE REGIONAL TRIAL COURT, BRANCH 101, QUEZON CITY, DECIDED A QUESTION [OF] LAW CONTRARY TO LAW AND JURISPRUDENCE WHEN IT DECIDED THAT SECTION 78 OF P.D. 464 WAS NOT REPEALED BY REPUBLIC ACT NO. 7160 KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991.

II

THE REGIONAL TRIAL COURT, BRANCH 101, QUEZON CITY, DECIDED A QUESTION [OF] LAW CONTRARY TO LAW AND JURISPRUDENCE WHEN IT RAISED THE FOLLOWING ISSUES WHICH DO NOT CONFORM TO THE PETITION AND ANSWER FILED BY THE PARTIES:

A. WHETHER OR NOT THE RESPONDENT IS ENTITLED TO THE PROTECTION OF ALL THE PROVISIONS OF QUEZON CITY TAX ORDINANCE NUMBER SP-91-93, OTHERWISE KNOWN AS QUEZON CITY REVENUE CODE OF 1993, INCLUDING SECTION 14 THEREOF, PROMULGATED PURSUANT TO R.A. 7160;

B. WHETHER THE PERIOD OF REDEMPTION IN A REALTY TAX SALE IN QUEZON CITY [H]AS TO BE RECKONED FROM THE DATE OF ANNOTATION OF THE CERTIFICATE OF SALE PURSUANT TO PARAGRAPH 7, SECTION 14 OF QUEZON CITY TAX ORDINANCE NO. SP-91-93 OR FROM THE DATE OF SALE PURSUANT TO SECTION 261 OF R.A. 7160.[9]

Petitioners argue that the RTC erred when it ruled that P.D. No. 464 was not repealed by R.A. No. 7160 and when it concluded that the phrase "from the date of sale" as appearing in Section 261 of R.A. No. 7160 means that the counting of the one (1) year redemption period of tax delinquent properties sold at public action shall commence from the date of registration of the certificate of sale.

Petitioners insist that, since Section 14 (a), Paragraph 7 of the Quezon City Revenue Code of 1993 was not initially alleged in respondent's petition and was not used as basis for its

filing, the RTC erred when it took cognizance of it when it rendered the assailed decision.

Conversely, respondent argues, among other things, that the RTC did not rule that P.D. No. 464 was not repealed by R.A. No. 7160, it merely made reference to Section 78 of P.D. No. 464. Respondent maintains that it has not altered its cause of action when it cited Section 14 (a), paragraph 7 of the Quezon City Revenue Code of 1993 for the first time in its memorandum and that its failure to invoke the said provision in the petition for mandamus does not preclude respondent from invoking it in the later part of the proceedings. Ultimately, respondent contends that the RTC correctly ruled that it had timely exercised its right to redeem the subject properties.

Section 78 of P.D. No. 464 provides for a one-year redemption period for properties foreclosed due to tax delinquency, thus:

Sec. 78. Redemption of real property after sale. - Within the term of *one year from the date of the registration of the sale of the property*, the delinquent taxpayer or his representative, or in his absence, any person holding a lien or claim over the property, shall have the right to redeem the same by paying the provincial or city treasurer or his deputy the total amount of taxes and penalties due up to the date of redemption, the costs of sale and the interest at the rate of twenty *per centum* on the purchase price, and such payment shall invalidate the sale certificate issued to the purchaser and shall entitle the person making the same to a certificate from the provincial or city treasurer or his deputy, stating that he had redeemed the property.^[10]

From the foregoing, the owner or any person holding a lien or claim over a tax delinquent property sold at public auction has one (1) year from the date of registration of sale to redeem the property. However, since the passing of R.A. No. 7160, such is no longer controlling. The issue of whether or not R.A. No. 7160 or the Local Government Code, repealed P.D. No. 464 or the Real Property Tax Code has long been laid to rest by this Court. Jurisdiction thrives to the effect that R.A. No. 7160 repealed P.D. No. 464.^[11] From January 1, 1992 onwards, the proper basis for the computation of the real property tax payable, including penalties or interests, if applicable, must be R. A. No. 7160. Its repealing clause, Section 534, reads:

SECTION 534. *Repealing Clause.* -

x x x x

(c) The provisions of Sections 2, 3, and 4 of Republic Act No. 1939 regarding hospital fund; Section 3, a (3) and b (2) of Republic Act No. 5447 regarding the Special Education Fund; Presidential Decree No. 144 as amended by

Presidential Decree Nos. 559 and 1741; Presidential Decree No. 231 as amended; Presidential Decree No. 436 as amended by Presidential Decree No. 558; and *Presidential Decrees Nos. 381, 436, 464, 477, 526, 632, 752, and 1136* are hereby repealed and rendered of no force and effect.

Inasmuch as the crafter of the Local Government Code clearly worded the above-cited Section to repeal P.D. No. 464, it is a clear showing of their legislative intent that R.A. No. 7160 was to supersede P.D. No. 464. As such, it is apparent that in case of sale of tax delinquent properties, R.A. No. 7160 is the general law applicable. Consequently, as regards redemption of tax delinquent properties sold at public auction, the pertinent provision is Section 261 of R.A. No. 7160, which provides:

Section 261. Redemption of Property Sold. - Within *one (1) year from the date of sale*, the owner of the delinquent real property or person having legal interest therein, or his representative, shall have the right to redeem the property upon payment to the local treasurer of the amount of delinquent tax, including the interest due thereon, and the expenses of sale from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of sale to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner of the delinquent real property or person having legal interest therein shall be entitled to a certificate of redemption which shall be issued by the local treasurer or his deputy.

From the date of sale until the expiration of the period of redemption, the delinquent real property shall remain in the possession of the owner or person having legal interest therein who shall remain in the possession of the owner or person having legal interest therein who shall be entitled to the income and other fruits thereof.

The local treasurer or his deputy, upon receipt from the purchaser of the certificate of sale, shall forthwith return to the latter the entire amount paid by him plus interest of not more than two percent (2%) per month. Thereafter, the property shall be free from all lien of such delinquent tax, interest due thereon and expenses of sale.^[12]

From the foregoing, the owner of the delinquent real property or person having legal interest therein, or his representative, has the right to redeem the property within *one (1) year from the date of sale* upon payment of the delinquent tax and other fees. Verily, the period of redemption of tax delinquent properties should be counted *not* from the date of registration of the certificate of sale, as previously provided by Section 78 of P.D. No. 464, but rather on the date of sale of the tax delinquent property, as explicitly provided by

Section 261 of R.A. No. 7160.

Nonetheless, the government of Quezon City, pursuant to the taxing power vested on local government units by Section 5, Article X of the 1987 Constitution^[13] and R.A. No. 7160, enacted City Ordinance No. SP-91, S-93, otherwise known as the Quezon City Revenue Code of 1993, providing, among other things, the procedure in the collection of delinquent taxes on real properties within the territorial jurisdiction of Quezon City. Section 14 (a), Paragraph 7, the Code provides:

7) Within *one (1) year from the date of the annotation of the sale of the property at the proper registry*, the owner of the delinquent real property or person having legal interest therein, or his representative, shall have the right to redeem the property by paying to the City Treasurer the amount of the delinquent tax, including interest due thereon, and the expenses of sale plus interest of two percent (2) per month on the purchase price from the date of sale to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner of the delinquent real property or person having legal interest therein shall be entitled to a certificate of redemption which shall be issued by the City Treasurer.

x x x x

Verily, the ordinance is explicit that the one-year redemption period should be counted from the *date of the annotation* of the sale of the property at the proper registry. At first glance, this provision runs counter to that of Section 261 of R.A. No. 7160 which provides that the one year redemption period shall be counted from the date of sale of the tax delinquent property. There is, therefore, a need to reconcile these seemingly conflicting provisions of a general law and a special law.

A general statute is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class. A special statute, as the term is generally understood, is one which relates to particular persons or things of a class or to a particular portion or section of the state only.^[14] In the present case, R.A. No. 7160 is to be construed as a general law, while City Ordinance No. SP-91, S-93 is a special law, having emanated only from R.A. No. 7160 and with limited territorial application in Quezon City only.

A general law and a special law on the same subject should be accordingly read together and harmonized, if possible, with a view to giving effect to both. Where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special must prevail, since it evinces the legislative intent more clearly than that of the general statute and must be taken as intended to constitute an exception to the rule.^[15] More so, when the validity of

the law is not in question.

In giving effect to these laws, it is also worthy to note that in cases involving redemption, the law protects the original owner. It is the policy of the law to aid rather than to defeat the owner's right. Therefore, redemption should be looked upon with favor and where no injury will follow, a liberal construction will be given to our redemption laws, specifically on the exercise of the right to redeem.^[16]

To harmonize the provisions of the two laws and to maintain the policy of the law to aid rather than to defeat the owner's right to redeem his property, Section 14 (a), Paragraph 7 of City Ordinance No. SP-91, S-93 should be construed as to define the phrase "*one (1) year from the date of sale*" as appearing in Section 261 of R.A. No. 7160, to mean "*one (1) year from the date of the annotation of the sale of the property at the proper registry.*"

Consequently, the counting of the one (1) year redemption period of property sold at public auction for its tax delinquency should be counted from the *date of annotation* of the certificate of sale in the proper Register of Deeds. Applying the foregoing to the case at bar, from the date of registration of the Certificate of Sale of Delinquent Property on February 10, 2004, respondent had until February 10, 2005 to redeem the subject properties. Hence, its tender of payment of the subject properties' tax delinquencies and other fees on June 10, 2004, was well within the redemption period, and it was manifest error on the part of petitioners to have refused such tender of payment.

Finally, respondent's failure to cite Section 14 (a), Paragraph 7, City Ordinance No. SP-91, S-93 in its petition for mandamus does not preclude it from invoking the said provision in the later part of the judicial proceeding.

The issues in every case are limited to those presented in the pleadings. The object of the pleadings is to draw the lines of battle between the litigants and to indicate fairly the nature of the claims or defenses of both parties.^[17] Points of law, theories, issues and arguments should be brought to the attention of the trial court to give the opposing party an opportunity to present further evidence material to these matters during judicial proceedings before the lower court. Otherwise, it would be too late to raise these issues during appeal. A party cannot, on appeal, change fundamentally the nature of the issue in the case. When a party deliberately adopts a certain theory and the case is decided upon that theory in the court below, he will not be permitted to change the same on appeal, because to permit him to do so would be unfair to the adverse party.^[18]

As early as in its Memorandum to Serve as Draft Resolution,^[19] respondent had brought Section 14 (a), Paragraph 7 of City Ordinance No. SP-91, S-93, or the Quezon City Revenue Code of 1993, to the attention of petitioners. Respondent also reiterated the applicability of the provision to his claim of redemption in its motion for reconsideration of the Order initially denying the petition for mandamus. Petitioners were given every opportunity to counter respondent's allegations, which it in fact did by filing an

Opposition^[20] to the motion for reconsideration. Since the inception of the petition in the lower court, respondent has not changed its preposition that the one (1) year redemption period shall be counted from the date of registration of the certificate of sale and not from the date of sale of the subject properties. Citing the appropriate provision of the Quezon City Revenue Code of 1993 did not alter this, but on the contrary, even buttressed its claim.

Furthermore, petitioners cannot feign ignorance of a law that it has promulgated in the exercise of its local autonomy. Nor can it be allowed to deny the applicability of Section 14 (a), Paragraph 7 of the Quezon City Revenue Code of 1993, while at the same time invoking that it has strictly adhered to the Quezon City Revenue Code when it conducted the public auction of the tax delinquent properties.

WHEREFORE, premises considered, the petition is **DENIED**. Subject to the above disquisitions, the Decision of the RTC in SP. Civil Action Q-04-53522, dated December 6, 2005, is **AFFIRMED**.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Penned by Judge Marie Christine A. Jacob, Pairing Judge, Regional Trial Court, Br. 101, Quezon City; *rollo*, pp. 65-71.

[2] *Rollo*, pp. 102-107.

[3] *Id.* at 72-88.

[4] *Id.* at 184-186.

[5] *Id.* at 187-205.

[6] *Id.* at 190-191.

[7] *Id.* at 65-71.

[8] *Id.* at 71.

[9] *Id.* at 34-35.

[10] Italics supplied.

[11] *National Power Corp. v. Province of Lanao del Sur*, G.R. No. 96700, November 19, 1996, 264 SCRA 271; *Ty v. Hon. Trampe*, 321 Phil. 81 (1995).

[12] Italics supplied.

[13] Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

[14] *Vinzons-Chato v. Fortune Tobacco Corporation*, G.R. No. 141309, June 19, 2007, 525 SCRA 11, 20, citing Agpalo, *Statutory Construction* (1990), second edition, p. 197.

[15] *Vitalista v. Perez*, G.R. No. 164147, June 16, 2006, 491 SCRA 127, 145.

[16] *Iligan Bay Manufacturing Corp. v. Dy*, G.R. Nos. 140836 & 140907, June 8, 2007, 524 SCRA 55, 70, citing *Sulit v. Court of Appeals*, 268 SCRA 441, 454 (1997).

[17] *Ortega v. Social Security Commission*, G.R. No. 176150, June 25, 2008, 555 SCRA 353, 370.

[18] *Carantes v. Court of Appeals*, 167 Phil. 232, 240 (1977).

[19] *Rollo*, pp. 169-183.

[20] *Id.* at 206-216.