



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

**“G.R. No. 253228 (*Bicol Century Development Corp., v. The Provincial Government of Camarines Sur and the Registry of Deeds of the Province of Camarines Sur*).** – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Court of Appeals (CA) Decision<sup>2</sup> dated November 14, 2019 and the Resolution<sup>3</sup> dated February 27, 2020 in CA-G.R. CV No. 111918. The assailed issuances affirmed the Resolution<sup>4</sup> dated July 2, 2018 of Branch 32, Regional Trial Court (RTC), Pili, Camarines Sur that ordered herein petitioner Bicol Century Development Corporation (BCDC) to surrender certain Transfer Certificates of Title (TCT) for the entry of new certificates in favor of respondent The Provincial Government of Camarines Sur (Camsur).

*The Antecedents*

Subject of the present controversy are five<sup>5</sup> parcels of land located within the province of Camarines Sur. These were held and owned previously by BCDC.<sup>6</sup>

Claiming to be the new owner, Camsur filed a Petition<sup>7</sup> before the RTC for the surrender of the Owner’s Duplicate Copies of TCT covering

<sup>1</sup> Title of the pleading as filed by the petitioner is Petition For Review/ Appeal by *Certiorari* under Rule 45, *rollo*, pp. 3-45.

<sup>2</sup> *Id.* at 55-75; penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of the Court) with Associate Justices Maria Elisa Sempio Diy and Gabriel T. Robeniol, concurring.

<sup>3</sup> *Id.* at 78-79.

<sup>4</sup> *Id.* at 168-177; penned by Presiding Judge Vivencio Gregorio G. Atutubo III.

<sup>5</sup> *Id.* at 110.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 109-114.

the subject properties, docketed as Special Proceedings No. P-2230. It alleged as follows: *first*, Camsur, as the lone bidder, acquired the subject properties through a delinquency sale held on January 30, 2014; and *second*, BCDC had one year from the sale to redeem the properties. However, it failed to do so within the redemption period.<sup>8</sup>

According to Camsur, BCDC's failure to redeem the properties resulted in the forfeiture thereof in favor of the local government. Thus, the issuance of new TCTs to register the properties in the new owner's name was necessary. For this purpose, it can compel the previous owner to surrender the TCTs, pursuant to Section 107 of Presidential Decree No. (PD) 1529, otherwise known as the Property Registration Decree.<sup>9</sup>

*BCDC filed its Answer with Compulsory Counterclaim (Answer).*<sup>10</sup> It asserted that the public auction adverted to by Camsur is null and void for non-compliance with public auction requirements under the Local Government Code of 1991 (LGC).<sup>11</sup> The auction being invalid, Camsur could not have become the owner of the subject properties by virtue thereof.<sup>12</sup> *Among its prayers was the declaration of nullity of the subject auctions and all proceedings related thereto.*<sup>13</sup>

Thereafter, the RTC referred the parties to undergo court-annexed mediation.<sup>14</sup> However, prior to the commencement of mediation proceedings, Camsur filed a *Motion for Judgment on the Pleadings*,<sup>15</sup> arguing that BCDC's Answer failed to tender an issue.<sup>16</sup>

BCDC opposed the motion by raising the following arguments: *first*, the RTC did not acquire jurisdiction over the case in view of Camsur's failure to pay the correct amount of docket fees; and *second*, Camsur's motion was premature because the court-annexed mediation and pre-trial have not yet commenced.<sup>17</sup>

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<sup>8</sup> *Id.* at 110-111.

<sup>9</sup> *Id.* at 111-112.

<sup>10</sup> *Id.* at 128-138.

<sup>11</sup> *Id.* at 130-131.

<sup>12</sup> *Id.* at 132-133.

<sup>13</sup> *Id.* at 136.

<sup>14</sup> *Id.* at 139-140.

<sup>15</sup> *Id.* at 147-152.

<sup>16</sup> *Id.* at 147.

<sup>17</sup> *Id.* at 157-162.

*The Ruling of the RTC*

In the Resolution<sup>18</sup> dated July 2, 2018, the RTC granted Camsur's motion. As a consequence, the case did not proceed to trial and the RTC rendered a judgment in Camsur's favor based on the pleadings, *viz*:

WHEREFORE, premises considered, the Motion for Judgment on the Pleadings is GRANTED. Accordingly, RESPONDENT BICOL CENTURY DEVELOPMENT CORPORATION is ORDERED to surrender Transfer Certificates of Title Nos. 29315, 29316, 29317 and 29318 to RESPONDENT REGISTER OF DEEDS FOR THE PROVINCE OF CAMARINES SUR for the entry of the new certificates or memorandum in favor of PETITIONER PROVINCIAL GOVERNMENT OF CAMARINES SUR.

In default thereof, RESPONDENT REGISTER OF DEEDS FOR THE PROVINCE OF CAMARINES SUR is ORDERED to annul said certificates of title and issue new ones in favor of PETITIONER PROVINCIAL GOVERNMENT OF CAMARINES SUR.

SO ORDERED.<sup>19</sup>

The RTC explained: *first*, it can only take cognizance of the case to the extent of four out of five parcels of land subject of the present case. That one parcel of land, which is only evidenced by a tax declaration and appears to be unregistered, is outside the trial court's jurisdiction;<sup>20</sup> *second*, the suit filed by Camsur was one for specific performance. Being incapable of pecuniary estimation, Camsur was not required to pay docket fees therefor. It was not a real action or, more particularly, one involving the quieting of title.<sup>21</sup> In demanding the surrender of the TCTs, Camsur was merely asserting its right. Thus, it acquired jurisdiction over the action despite the absence of the payment of docket fees; *third*, *it cannot entertain BCDC's attacks against the delinquency sale's validity. BCDC did not pay the deposit<sup>22</sup> required by Section 267 of the LGC to enable the court to take proper cognizance of any action assailing an auction sale's validity;*<sup>23</sup> *fourth*, BCDC's

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<sup>18</sup> *Id.* at 168-177.

<sup>19</sup> *Id.* at 177.

<sup>20</sup> *Id.* at 170-171.

<sup>21</sup> *Id.* at 172.

<sup>22</sup> Section 267 of the LGC requires a deposit equal to the selling price of the property plus 2% interest per month from the date of sale to the time of the institution of the action.

<sup>23</sup> *Id.*

Answer<sup>24</sup> failed to tender an issue. Its arguments consisted only of alleged irregularities attending the delinquency sale. Its averments failed to dispute Camsur's claim that the properties had been forfeited due to BCDC's failure to redeem the properties within one year from the date of sale.<sup>25</sup>

The RTC also denied BCDC's subsequent motion for reconsideration. This prompted BCDC to appeal to the CA.<sup>26</sup>

### *The Ruling of the CA*

In its assailed Decision,<sup>27</sup> the CA dismissed BCDC's appeal and held that the RTC correctly rendered a judgment on the pleadings. The appellate court ruled as follows: *first*, the action filed by Camsur was incapable of pecuniary estimation; *second*, the Judicial Dispute Resolution (JDR) Rules specifically provide that "all incidents and motions filed during the first stage shall be dealt with by the JDR Judge." Thus, Judge Vivencio Gregorio G. Atutubo III, acting as JDR judge, correctly resolved Camsur's motion for judgment on the pleadings; *third*, as held in *Gamilla v. Burgundy Realty Corporation* (Gamilla),<sup>28</sup> *the payment of the deposit required by Section 267 of the LGC is jurisdictional in cases where a party assails the validity of a delinquency sale, whether in an initiatory pleading or an answer thereto;*<sup>29</sup> and *fourth*, BCDC admits that it tendered to pay its delinquency taxes only on December 12, 2016 or more than one year after the delinquency sale held on January 30, 2014. Its belated tender of payment clearly shows that it failed to redeem the subject properties within the time allowed by the law. Consequently, the consolidation of the titles became a matter of right in favor of the highest bidder, Camsur.<sup>30</sup>

The CA also denied the subsequent motion for reconsideration.<sup>31</sup>

Hence, BCDC filed the present petition.

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<sup>24</sup> *Id.* at 128-138.

<sup>25</sup> *Id.* at 175.

<sup>26</sup> *Id.* at 57.

<sup>27</sup> *Id.* at 55-75.

<sup>28</sup> 761 Phil. 549 (2015).

<sup>29</sup> *Id.* at 557.

<sup>30</sup> *Rollo*, p. 74.

<sup>31</sup> *Id.* at 78-79.

### *Petitioner's Arguments*

BCDC ascribes error upon the CA and argues: *first*, *Spouses Plaza v. Lustiva*<sup>32</sup> (*Spouses Plaza*) enunciated the prevailing rule that the deposit requirement under Section 267 of the LGC applies only to initiatory pleadings, not to a responsive pleading questioning the validity of the auction sale; *second*, a judgment on the pleadings was improper considering that BCDC's Answer sufficiently tendered an issue; *third*, the RTC's premature judgment amounts to a violation of due process; and *fourth*, the JDR Judge does not have the authority to resolve a motion on judgment on the pleadings.<sup>33</sup>

### *Respondents' Arguments*

In its Comment,<sup>34</sup> Camsur counters as follows: *first*, the payment of a deposit is a jurisdictional requirement in challenging the validity of an auction sale; *second*, it is within the RTC's discretion to render a judgment on the pleadings and decide that the case may be resolved without the conduct of a trial; and *third*, BCDC failed to redeem the subject properties within the time allowed.<sup>35</sup>

### *The Issues*

The Court shall resolve the following issues: *first*, did the JDR Judge have jurisdiction to act on the Motion for Judgment on the Pleadings?<sup>36</sup> *second*, is a deposit, as defined under Section 267 of the LGC, required before the trial court may take cognizance of a *defense* asserting the nullity of an auction sale? and *third*, was a judgment on the pleadings proper in the case?

### *Our Ruling*

The petition is unmeritorious.

The CA did not err in ruling that: *first*, the JDR judge had jurisdiction to deal with the Motion for Judgment on the Pleadings;<sup>37</sup> *second*, the payment of the deposit under Section 267 of the LGC was

<sup>32</sup> 728 Phil. 359 (2014).

<sup>33</sup> *Rollo*, pp. 21-23.

<sup>34</sup> *Id.* at 372-382.

<sup>35</sup> *Id.* at 377-378.

<sup>36</sup> *Id.* at 147-150.

<sup>37</sup> *Id.*

required before the RTC could entertain BCDC's defense and counterclaim praying for the nullification of the public auction proceedings; and *third*, as a consequence, without an effective defense, BCDC's Answer failed to tender an issue. Thus, the RTC's judgment on the pleadings was proper.

*JDR Judge had jurisdiction to act  
on the Motion on Judgment on the  
Pleadings*

The Court agrees with the CA that the JDR Judge's resolution of the Motion for Judgment on the Pleadings<sup>38</sup> was proper. The Revised JDR Guidelines<sup>39</sup> allows the JDR Judge to deal with all incidents or motions filed during the period from the filing of a complaint to the conduct of court-annexed mediation and JDR during the pre-trial stage.<sup>40</sup>

*The deposit under Section 267 of  
the LGC was necessary before the  
RTC could entertain BCDC's  
defense*

Pivotal to the resolution of the present controversy is the deposit requirement under Section 267 of the LGC, which provides:

SECTION 267. Action Assailing Validity of Tax Sale. – No court shall entertain any action assailing the validity of 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 of 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.

The Court has dealt with this provision on several previous occasions.

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<sup>38</sup> *Id.*

<sup>39</sup> Supreme Court Resolution A.M. No. 11-1-6-SC-PHILJA, entitled, "Consolidated and Revised Guidelines To Implement The Expanded Coverage Of Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR)," dated January 11, 2011.

<sup>40</sup> Part Three (III), *id.*

In *Spouses Plaza*,<sup>41</sup> the plaintiff claimed to have acquired the subject property from the sole bidder in a supposed tax delinquency sale involving the same property. The defendants, in their *Answer* to the complaint for injunction, damages, attorney's fees with prayer for the issuance of the writ of preliminary injunction and/or temporary restraining order, pointed out that *they were never delinquent* in paying the land taxes and were in fact *not aware that their property* had been offered for public auction.

The Court interpreted the deposit requirement under the aforementioned provision as applying only to "initiatory actions assailing the validity of tax sales."<sup>42</sup> Thus, the Court ruled that the defendants were not required to make a deposit because "the issue of nullity of the auction was raised x x x merely as a defense and *in no way converted the action to an action for annulment of a tax sale.*"<sup>43</sup>

Subsequently, *Gamilla*<sup>44</sup> involved a Petition for the Cancellation of Condominium Certificate of Title (CCT) with prayer for the issuance of a new CCT, which was filed by a party claiming to have acquired the subject property as the highest bidder in a tax delinquency sale. In response, the defendant *opposed* the petition and, in turn, sought to nullify the auction sale. Interestingly, the respondent *did not deny that it had been delinquent in the payment of taxes*. It only put in issue the improper procedure in the auction sale, particularly the lack of proper notice to the property owner.

Contrary to its claims, the Court found that the defendant therein was properly notified of its tax delinquency and the resultant auction sale proceedings. In other words, it was clear that the defendant was delinquent. Thus, when it sought to nullify the delinquency sale in its *opposition*, it was required to pay the deposit under Section 267 of the LGC. Sans the deposit, the RTC should not have acted on the said responsive pleading (*i.e.*, opposition to the petition for the cancellation of CCT).<sup>45</sup>

In the present case, BCDC does not deny the fact that it had been delinquent in the payment of taxes. Significantly, it is on record<sup>46</sup> that

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<sup>41</sup> *Spouses Plaza v. Lustiva*, *supra* note 32.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Supra* note 28.

<sup>45</sup> *Id.*

<sup>46</sup> *Rollo*, p. 174

BCDC offered to redeem the properties by tendering the sum of ₱24,247,326.66 to settle its delinquent taxes. Furthermore, it did not raise the issue of nullity of the public auction proceedings as a *mere defense*. It actually *prayed* for the nullification of said proceedings. Stated differently, unlike the taxpayer in *Spouses Plaza*, BCDC admits tax delinquency on their part, questions the regularity of the public auction proceedings, and *seeks to annul the same proceedings*.

On the other hand, it is clear that Section 267 of the LGC prevents a trial court from taking cognizance of *an attempt to void auction proceedings* unless the party assailing the validity thereof pays the required deposit. To stress, when the taxpayer admits his delinquent status *and* he does not merely raise the issue of the proceedings' nullity as a defense but also as part of its *counterclaim*,<sup>47</sup> *where the ultimate relief sought is the annulment of the tax delinquency sale*, he must first pay the deposit under Section 267 of the LGC. Otherwise, the court will not have jurisdiction over the cause of action (*i.e.*, annulment of sale), much less, have any authority to grant the relief sought. Thus, in Our view, the CA did not err in applying *Gamilla* and ruling that the allegations in BCDC's Answer necessitated the payment of the deposit.

*Judgment on the pleadings  
was proper*

To recall, the RTC rendered a judgment on the pleadings in favor of Camsur. The propriety of a judgment on the pleadings turns upon the question of whether the answer failed to tender an issue or otherwise admitted the adverse party's material allegations.<sup>48</sup>

On the one hand, Camsur, in its petition seeking for the surrender of the Owner's Duplicate Copies of TCT covering the subject properties, alleged, in the main, that (a) it was the lone bidder, (b) it acquired the subject properties through a delinquency sale held on January 30, 2014, and (c) BCDC failed to redeem the properties within one year from such sale.

For its part, BCDC, anchored its defense on the supposed invalidity of the delinquency sale proceedings and prayed for the declaration of nullity thereof *without paying the requisite deposit under Section 267 of the LGC*. As ruled above, the non-payment of this deposit

<sup>47</sup> See Section 6, Rule 6 of the Rules of Court.

<sup>48</sup> See Section 1, Rule 34 of the Rules of Court.



prevented the RTC from taking cognizance of its defense and prayer. *Nothing else in its Answer effectively controverts Camsur's material allegations.* Notably, BCDC's averment of having offered to settle its delinquent taxes on December 12, 2016<sup>49</sup> only serves as an *admission* that it is a delinquent taxpayer and it failed to redeem the subject properties within one year from the delinquency sale. These make it clear that its Answer failed to tender an issue. Thus, the RTC's judgment on the pleadings was proper.

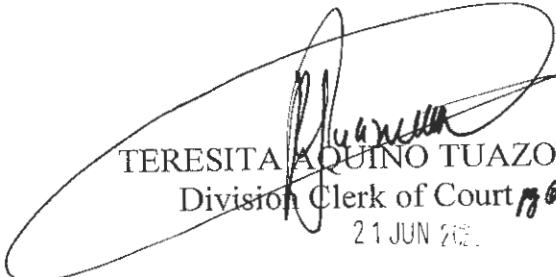
**WHEREFORE**, the petition is **DENIED**. The Court of Appeals Decision dated November 14, 2019 and the Resolution dated February 27, 2020 in CA-G.R. CV No. 111918 are **AFFIRMED**.

The Court resolves to:

1. **GRANT** petitioner's (a) motion for extension of thirty [30] days from September 10, 2021 within which to file a reply to comment on the petition; and (b) motion to admit reply dated October 26, 2021; and
2. **NOTE** the aforesaid reply dated October 8, 2021.

**SO ORDERED.**"

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *pg 6/20*  
21 JUN 2021

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<sup>49</sup> *Rollo*, p. 133.

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(Spec. Proc. No. P-2230)

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