

## SECOND DIVISION

[ G.R. No. 207791, July 15, 2015 ]

**THE CITY OF DAVAO, REPRESENTED BY THE CITY TREASURER OF  
DAVAO CITY, PETITIONER, VS. THE INTESTATE ESTATE OF  
AMADO S. DALISAY, REPRESENTED BY SPECIAL  
ADMINISTRATOR ATTY. NICASIO B. PADERNA, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the January 24, 2013 Decision<sup>[1]</sup> and the May 15, 2013 Resolution<sup>[2]</sup> of the Court of Appeals (CA), in CA-G.R. CV No. 01903-MIN, which affirmed the June 6, 2008 Decision of the Regional Trial Court, Branch 17, Davao City (RTC), ordering the City of Davao to, among others, receive the amount of P5,000,000.00 as full payment of the redemption price of the forfeited properties of the Intestate Estate of Amado S. Dalisay.

#### The Facts

The Estate of Amado S. Dalisay (*the Estate*) owned the following properties, all situated in Davao City:

1. Lot 1, Pcs-11-001298, covered by Transfer Certificate of Title (TCT) No. T-202211 with Tax Declaration No. E-1-34-10484;
2. Lot 6, Pcs-11-001298, covered by TCT No. T-202215 with Tax Declaration No. E-1-34-10488;
3. Lot 7, Pcs-11-001298, covered by TCT No. T-202216 with Tax Declaration No. E-1-34-10489;
4. Lot 2, Pcs-11-001298, covered by TCT No. T-202212 with Tax Declaration No. E-1-34-10492; and
5. Building erected in Lot No. 26-B and covered by Tax Declaration No. E-1-34-10480.

These properties were advertised for sale at a public auction for nonpayment of real estate taxes. The public auction was scheduled on July 19, 2004. No bidders appeared on the date of the public auction, thus, the aforesaid properties were acquired by the City Government of Davao (*the City*) pursuant to Section 263 of Republic Act (R.A.) No. 7160 of the Local Government Code of 1991 (LGC) which provides:

Section 263. *Purchase of Property By the Local Government Units for Want of Bidder.* - In case there is no bidder for the real property advertised for sale as provided herein, the real property tax and the related interest and costs of sale, the local treasurer conducting the sale shall purchase the property in behalf of the local government unit concerned to satisfy the claim and within two (2) days thereafter shall make a report of his proceedings which shall be reflected upon the records of his office. It shall be the duty of the Registrar of Deeds concerned upon registration with his office of any such declaration of forfeiture to transfer the title of the forfeited property to the local government unit concerned without the necessity of an order from a competent court.

**Within one (1) year from the date of such forfeiture,** the taxpayer or any of his representative, may redeem the property by paying to the local treasurer the full amount of the real property tax and the related interest and the costs of sale. If the property is not redeemed as provided herein, the ownership thereof shall be vested on the local government unit concerned.

On September 13, 2005, or more than a year after the public auction, the Declarations of Forfeiture for the five (5) properties were separately issued by the City Treasurer. The common provisions of the declarations read:

**WHEREAS, the delinquent taxpayer or his authorized representative, has within a period of one (1) year from said date of Declaration of Forfeiture as herein specified, to redeem the property** sold by paying to the City Treasurer the full amount of the real property tax and related interest and cost of sale as authorized under R.A. 7160. If the property is not redeemed as herein provided, the ownership of the above described property shall be fully vested to the City Government of Davao in accordance with Section 263 of R.A. 7160.

NOW, THEREFORE, for and in accordance of the foregoing, I RODRIGO S. RIOLA, in my capacity as the Acting City Treasurer of Davao City, and pursuant to the provision of Section 262 of Republic Act 7160 otherwise known as the Local Government Code of 1991 **hereby DECLARE AS IT HEREBY DECLARED the above described property FORFEITED in favor of the City Government of Davao.**

**EXECUTED in Davao City, Philippines this 13<sup>th</sup> day of September 2005.**

[Emphases Supplied]

On October 3, 2005, the City caused the annotation of the five (5) Declarations of Forfeiture on the corresponding TCTs of the properties.

Subsequently, the Estate inquired from the City Treasurer's Office regarding the amount of the redemption price of the properties. On September 11, 2006, the Real Property Tax Division of the City furnished the Estate copies of the billing statements containing a handwritten summary of the amount showing the aggregate total of

P4,996,534.67.

Thus, on September 13, 2006, the Estate delivered a written tender of payment to the City Treasurer and, at the same time, tendered the amount of P5,000,000.00. The City, however, refused to accept the same. This constrained the Estate to file the Notice to Deposit the P5,000,000.00 with the Office of the Clerk of Court, RTC, at the disposal of the City Treasurer. In doing so, the Estate was made to pay legal fees amounting to P75,200.00. An action for redemption, consignment and damages against the City was consequently filed by the Estate with the RTC.

For its part, the City admitted the existence of the billing statements, but it posited that their issuance was not an admission that the Estate still had the right to redeem the properties. The period of redemption had long expired on July 19, 2005, a year after the subject properties were acquired by the City during the public auction for want of a bidder. Hence, its refusal to accept the tendered amount was valid and for a lawful cause.

On June 6, 2008, the RTC ruled in favor of the Estate, finding the latter's evidence as preponderantly acceptable in establishing its right of redemption. The City was ordered to: 1) receive the P5,000,000.00 deposited with the Clerk of Court, as full payment of the redemption price of the forfeited properties; and 2) issue a certificate of redemption in favor of the Estate. Further, actual damages and attorneys fees in the amount of P75,200.00 and P50,000.00, respectively, were awarded in favor of the Estate.<sup>[3]</sup>

Aggrieved, the City appealed the RTC decision to the CA, arguing that the one (1) year period should be reckoned from the date of forfeiture, that is, when the properties of the Estate were purchased by the City for want of a bidder during the public auction on July 19, 2004. In the same vein, the RTC erred in holding that the City was estopped from disclaiming and denying the erroneous statement made by the City Treasurer when the Estate was inadvertently informed that the one year redemption period started from the date of the issued Declaration of Forfeiture.

To this, the Estate countered that the reckoning date should be the one stated in the Declarations of Forfeiture which corresponded to their date of issuance, to wit, on September 13, 2005.

In the assailed decision, the CA affirmed the ruling of the RTC. It observed that the City had been remiss in its duty to immediately issue the Declaration of Forfeiture within two (2) days from purchase of the property as required under Section 263 of the LGC. The CA then explained that "redemption should be looked upon with favor, and where no injury would follow, a liberal construction will be given to redemption laws, specifically on the exercise of the right to redeem." In the words of the CA:

In the case at bench, We have come to the conclusion upon inquiry into the equities of this case to liberally apply the redemption provision of the law in favor of the Estate of Amado Dalisay and give them another opportunity to recover the properties.

It must be stressed that the delinquent taxpayer may **within one (1) year from the date of such forfeiture, redeem the property** by paying to the local treasurer the full amount of the real property tax and

the related interest and the costs of sale. The City, by its own inefficiency, belatedly issued the DECLARATIONS OF FORFEITURE on September 13, 2005. Such is no fault of the plaintiff-appellee.<sup>[4]</sup>

[Emphasis and Underscoring in the Original]

As regards the issue on damages, the CA found the award of attorney's fees proper, in accordance with Article 2208 of the Civil Code which allowed an award of the said fees and expenses of litigation, other than judicial costs, when by the act or omission of one party, compelled the other to litigate and incur expenses of litigation to protect his interest.<sup>[5]</sup> In this case, the City's refusal to accept the Estate's tendered payment for the redemption of the lots had effectively constrained it to file suit. Lastly, the actual damages in the amount of P75,200.00 as consignment fees had been proven with the corresponding receipt.

Hence, this petition.

### **ASSIGNMENT OF ERRORS:**

1. THAT THE HONORABLE COURT ERRED IN HOLDING THAT THE ONE YEAR REDEMPTION PERIOD BEGINS FROM THE DATE OF DECLARATION OF FORFEITURE ISSUED BY THE CITY TREASURER ON SEPTEMBER 13, 2006, INSTEAD OF JULY 19, 2004, WHEN THE SUBJECT DELINQUENT PROPERTIES WERE FORFEITED BY THE CITY GOVERNMENT FOR WANT OF BIDDER DURING THE PUBLIC AUCTION SALE;
2. THAT THE HONORABLE COURT ERRED IN HOLDING THAT THE CITY GOVERNMENT IS ESTOPPED FROM DISCLAIMING AND DENYING THE ERRONEOUS STATEMENT MADE BY THE CITY TREASURER IN HIS DECLARATION OF FORFEITURES DATED SEPTEMBER 13, 2006, WHICH INADVERTINTLY (SIC) INFORMED THE PLAINTIFF THAT THE ONE YEAR REDEMPTION PERIOD STARTS FROM THE DATE OF DECLARATION;
3. THAT THE HONORABLE COURT ERRED IN HOLDING THAT THE PROVISION OF SECTION 263 OF R.A. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991" DID NOT EXPRESSLY REPEAL THE PERTINENT PROVISION OF REDEMPTION UNDER P.D. 464, THE LAW GOVERNING REAL PROPERTY TAXATION THEN, AND ACT 496, SECTIONS 50 AND 377 GRANTING THE RIGHT OF REDEMPTION TO BE EXERCISED WITHIN ONE YEAR FROM THE REGISTRATION OF SAID FORFEITED PROPERTIES IN THE REGISTER OF DEEDS;
4. THAT THE HONORABLE COURT ERRED IN HOLDING PUBLIC DEFENDANT-APPELLANT LIABLE TO PAY PLAINTIFF FOR ACTUAL DAMAGES IN THE AMOUNT OF P75,200.00 AS CONSIGNATION FEES AND ATTORNEY'S FEES AMOUNTING TO P50,000.00.<sup>[6]</sup>

The City argues that no law provides that the one (1) year redemption period should be counted from the date of the Declaration of Forfeiture. What the LGC simply provides is that the period of redemption is "*within one (1) year from the date of such forfeiture.*" For the City, this phrase means that the effective date of the forfeiture was July 19, 2004, when the tax delinquent properties were sold at a

public auction and, thus, forfeited in its favor for want of a bidder, rather than September 13, 2005 or the date of the issued Declarations of Forfeiture.

Further, and contrary to the observation of the CA, Section 263 of the LGC does not order the City Treasurer to issue a declaration of forfeiture within two (2) days from the date when tax delinquent real properties, sold at auction sale, are purchased by the local government in the absence of a bidder. It merely directs the local treasurer to make a report of his proceedings which shall be reflected in the records of his office. In fine, it is the position of the City that the issuance of the said declarations of forfeiture had no bearing in the determination of the period of redemption, inasmuch as the same were only issued for registration purposes with the Register of Deeds.<sup>[7]</sup> Here, the date of issuance of the five (5) declarations of forfeiture on September 13, 2005 was immaterial as the same was merely intended to facilitate the transfers of title to the forfeited properties in favor of the City after the lapse of the redemption period reckoned from the auction sale held on July 19, 2004.

Assuming *arguendo* that the City Treasurer is mandated by law to issue a declaration of forfeiture within two (2) days from the purchase of the properties, the City avers that it should not be bound by the consequences of the malfeasance of its public officers. In other words, the City invokes the doctrine that the principle of estoppel does not operate against the government for the act of its agents, and that it is never estopped by any mistake or error on their part.<sup>[8]</sup>

#### *Position of the Estate*

For its part, the Estate argues that the City erred when it interpreted the subject provision and concluded that "[t]he law does not say that the one (1) year period of redemption is counted from the date of 'declaration of forfeiture.'"<sup>[9]</sup> It explained that the provision merely states that the redemption period is counted from "the date of such forfeiture," and the word "such" before the word "forfeiture" was resorted to in order to avoid the repetition of the words "declaration of before the word "forfeiture."<sup>[10]</sup> This interpretation is supported by the second paragraph of the same provision which mentions the phrase, "any such declaration of forfeiture" in connection with the duty of the Register of Deeds to transfer the title of the forfeited property to the local government unit *sans* a court order. The Estate submits that the subject provision should be read as follows:

**Within one (1) year from the date of declaration of forfeiture** the taxpayer or any of its representative, may redeem the property by paying to the local treasurer the full amount of the real property tax and the related interest and costs of sale. If the property is not redeemed as provided herein, the ownership thereof shall be fully vested in the local government unit concerned.<sup>[11]</sup>

[Emphasis Supplied]

The Estate likewise opposes the City's theory that declarations of forfeiture have no bearing in the determination of the period of redemption because the same were only issued by the treasurer for registration purposes with the Register of Deeds. For the Estate, there is a difference between redemption of property sold at a public auction and redemption of property purchased by the local government unit for want