

THIRD DIVISION

[G.R. No. 173829, June 10, 2013]

VALBUECO, INC., PETITIONER, VS. PROVINCE OF BATAAN, REPRESENTED BY ITS PROVINCIAL GOVERNOR ANTONIO ROMAN;^[1] EMMANUEL M. AQUINO,^[2] IN HIS OFFICIAL CAPACITY AS REGISTRAR OF THE REGISTER OF DEEDS OF BALANGA, BATAAN; AND PASTOR P. VICHUACO,^[3] IN HIS OFFICIAL CAPACITY AS PROVINCIAL TREASURER OF BALANGA, BATAAN, RESPONDENTS.

DECISION

PERALTA, J.:

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure are the October 24, 2005 Decision^[4] and July 18, 2006 Resolution^[5] of the Court of Appeals (CA) in CA-G.R. CV No. 81191 affirming the August 19, 2003 Decision^[6] of the Regional Trial Court (RTC), Branch 1, Balanga City, Bataan, which dismissed the civil complaint filed by petitioner.

Petitioner Valbueco, Inc. was the registered owner of eight (8) parcels of land situated at Saysain, Bagac, Bataan, described in and covered by Transfer Certificates of Title (TCT) No. 47377, 47378, 47379, 47380, 47381, 47382, 47385 and 47386 of the Register of Deeds for the Province of Bataan, with a total land area of 1,862,123 sq. m., and an assessed value of P1,364,330.00 as of 1994.

Due to petitioner's unpaid real property taxes, the above-mentioned properties were sold at public auction sometime in 1987 or 1988^[7] whereby respondent Province of Bataan (Province) emerged as the winning bidder in the amount of Seventy Thousand Seven Hundred Sixty-Two Pesos and 90/100 (P70,762.90).

Years later, on March 29, 1995, petitioner filed a complaint to nullify the tax sale and the consolidation of title and ownership in favor of respondent Province, and to reconvey the possession, title and ownership of the subject properties, alleging as follows:

x x x x

6. To effect collection of taxes on [petitioner's] real property x x x in the total amount of SEVENTY THOUSAND SEVEN HUNDRED SIXTY-TWO PESOS AND NINETY CENTAVOS (P70,762.90), defendant provincial TREASURER proceeded to effect collection of taxes without first making a distraint on the personality (*sic*) of [petitioner] which is worth more than its alleged total tax liability, instead, distrained the real properties stated

in the immediately preceeding (*sic*) paragraph;

7. In making and effecting the distraint, [respondent] TREASURER failed and omitted to have the distraint annotated;

8. Having made the annotated levy on distraint, [respondent] TREASURER caused the sale of the real properties at the auction sans the necessary publication and/or notice in at least three (3) public and conspicuous places;

9. Likewise, no notice of the sale has been served upon the [petitioner];

10. To make matters worse, [respondents] caused the unlawful consolidation of title and ownership to the above-mentioned real properties in the name of the [respondent] PROVINCE x x x;

11. It was only sometime in the first quarter of 1992, while [petitioner] was in the process of negotiating with the representatives of the Department of Agrarian Reform for the possibility of exemption of its landholdings at Bagac, Bataan, did it learn that the aforesaid parcels of land were included in the auction sale conducted by [respondent] TREASURER pursuant to the provisions of Presidential Decree No. 464;

12. On several occasions [petitioner] requested and demanded the reconveyance of the above-mentioned properties from the [respondents] but to no avail;

13. As a consequence of the anomalous and irregular distraint, levy, auction sale and consolidation of title and ownership of the above-mentioned real properties in the name of the [respondent] PROVINCE, [petitioner] suffered actual damages in an amount to be proved at the trial of this case; x x x^[8]

In their Answer with Counterclaim, respondents denied petitioner's allegations and, by way of special and affirmative defenses, averred:

x x x x

8. That granting hypothetically that there was no distraint of personal property first of the [petitioner] before proceeding with the distraint of real properties, Presidential Decree No. 464, the law then prevailing[,] provides under Section 67, thus:

"SEC. 67. — Remedies, cumulative, simultaneous and unconditional. — Collection of real property tax may be enforced through any or all of the remedies provided under this Code, and the use or non-use of one remedy shall not be a bar against the institution of the others. Formal demand for the payment of the delinquent taxes and penalties due need not be made before any of such remedies may be resorted to;

notice of delinquency as required in Section sixty-five hereof shall be sufficient for the purpose." (underlining supplied)

In fact, in the succeeding section, it is so provided that "payment may be enforced by distraining the personal property x x x" (underscoring supplied) which only means that distraint of personal property is not a condition sine qua non before real property could be distraint;

9. That all legal requirements under Presidential Decree No. 464 had been properly complied with in the public auction sale of the delinquent properties;

10. That despite repeated demands, no attempt has been made by the [petitioner] to pay the tax delinquency, much less, redeem the property from the [respondent] provincial government; x x x^[9]

It appearing that the subject lots were placed under the coverage of the Comprehensive Agrarian Reform Program (CARP) and distributed to qualified beneficiaries under Republic Act (R.A.) No. 6657, petitioner later on filed an Amended Complaint^[10] dated September 10, 1998 impleading the Secretary of the Department of Agrarian Reform (DAR) and eight-five (85) individual beneficiaries as additional defendants. Petitioner further alleged that: on December 2, 1994, it wrote a letter to the DAR Secretary through the OIC Regional Director of Region 3, San Fernando, Pampanga, objecting to the operation of the CARP for the reason that the subject properties are pasture lands; that instead of answering said letter, the DAR Secretary unlawfully and unscrupulously awarded the subject properties through the issuance of Certificates of Land Ownership Award (CLOA) No. 00146060, 00146062, 00146065, and 00146071 in favor of the defendant beneficiaries; and that pursuant to the decision of the Court in *Luz Farms v. Secretary of the Department of Agrarian Reform*,^[11] TCT No. CLOA-4464, CLOA-4465, CLOA-4466, CLOA-4467, and CLOA-4468 issued to the beneficiaries should be cancelled for being null and void.

Meantime, on November 16, 1998, petitioner manifested that it deposited before the clerk of court the amount of P70,762.90 and P62,271.00, which respectively represent the price the subject properties were sold at public auction and the two percent (2%) interest per month reckoned from the date of the sale until the filing of the complaint.^[12]

In their Answer with Compulsory Counterclaim,^[13] the CARP beneficiaries moved to dismiss the Amended Complaint. They asserted that petitioner's claim does not state a cause of action for failure to exhaust administrative remedies prior to filing of the case; that the consolidation of title and transfer of ownership in favor of respondent Province are in accordance with the law; that TCT Nos. CLOA-4464, CLOA-4465, CLOA-4466, CLOA-4467, and CLOA-4468 are legal, valid and binding conformably with RA 6657 and related laws; that petitioner is guilty of estoppel and is barred by laches; and that they are the qualified and legal beneficiaries of the subject properties, which are agricultural in nature, hence, within the CARP coverage.

Likewise, the DAR Secretary sought the dismissal of the Amended Complaint. Invoking Section 1^[14] (f) and (g), Rule II of the Department of Agrarian Reform

Adjudication Board (DARAB) New Rules of Procedure dated May 30, 1994, Sections 50 and 57^[15] of RA 6657, Section 34^[16] of Executive Order No. 129-A dated July 26, 1987, and Supreme Court Administrative Circular No. 3-92, it was argued that the RTC has no jurisdiction over DAR because the ultimate relief prayed for by petitioner is the cancellation of the CLOAs issued to the qualified beneficiaries of the CARP under RA 6657, the determination of which is exclusively lodged before the DARAB.

On September 29, 1999, the trial court dismissed the Amended Complaint.^[17] Subsequently, however, it reconsidered the resolution on February 8, 2000. The court ruled that, even if it lacks jurisdiction over the DAR Secretary and the CARP beneficiaries, it still has jurisdiction to decide on the validity or legality of the auction sale and the consolidation of ownership and/or transfer of title of the subject properties in favor of respondent Province.^[18]

After trial on the merits, petitioner's complaint was nonetheless dismissed. The dispositive portion of the August 19, 2003 Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered dismissing its complaint for lack of merit and ordering the [petitioner] to pay the Province of Bataan the sum of P50,000.00 as attorney's fees.

The clerk of court of the Regional Trial Court of Bataan is hereby ordered to refund the sum of P133,033.90 which [petitioner] deposited on November 13, 1998 as its cash deposit under O.R. 1604701.

SO ORDERED.^[19]

Petitioner elevated the case to the CA, but its appeal was dismissed on October 24, 2005. The RTC Decision was affirmed except for the award of attorney's fees, which was deleted for lack of basis. On July 18, 2006, petitioner's motion for reconsideration was also denied; hence, this petition.

The petition lacks merit.

While it has been ruled that the notices and publication, as well as the legal requirements for a tax delinquency sale under Presidential Decree No. 464 (otherwise known as the Real Property Tax Code),^[20] are mandatory and that failure to comply therewith can invalidate the sale in view of the requirements of due process, We have equally held that the claim of lack of notice is a factual question.^[21] In a petition for review, the Court can only pass upon questions of law; it is not a trier of facts and will not inquire into and review the evidence presented by the contending parties during the trial and relied upon by the lower courts to support their findings.^[22] The issues raised in this petition undeniably involve only questions of fact. On this ground alone, it should be dismissed outright.

Even if We dig deeper and scrutinize the entire case records, the same conclusion would be arrived at. Indeed, petitioner utterly failed to present preponderant

evidence to support its allegations that the auction sale of the subject properties due to tax delinquency was attended by irregularities. The two witnesses it presented are neither competent nor convincing to attest with reasonable certainty that respondents failed to observe the procedural requirements of PD 464.^[23] The Court is, thus, satisfied with the factual findings of the trial court, as affirmed by the CA, and sees no reason to disturb the same.

We cannot lend credence to the testimony of Gaudencio P. Juan, petitioner's Forestry and Technical Consultant who claimed to have been an employee since 1964,^[24] that no notice of tax delinquency, demand for tax payment or collection notice was received and that there was no publication and posting of notice of sale held. According to him, his duties and responsibilities include: bringing out some technical matters to the company (e.g., use of grazing lands) and preparing plans for implementation by the company (e.g., occupation of the area, the conversion of the area for pasture purposes);^[25] land and boundary disputes between petitioner and owners of adjoining areas;^[26] planning some other plans for the implementation in the area like reforestation and other forestry cases;^[27] and planning preparation of reports, uses of the land for forestry and agricultural purposes.^[28] These, however, have nothing to do with the duty of ensuring the prompt and timely settlement of petitioner's realty taxes or of making any representation, for or in behalf of petitioner, with respondents in connection thereto. In fact, Juan categorically admitted that he is not the custodian of petitioner's corporate records:

ATTY. BANZON:

Q: It is not among your duties to keep records on file?

A: No, sir.

Q: Whose duties is it to keep in custody the records of the corporation?

A: Our records department, sir.

Q: Who heads the records department?

A: It is now Gil Herpe, sir.

Q: When did Mr. Herpe assume his position as the custodian of the corporation?

A: From 1989, sir.

Q: Up to the present?

A: Yes, sir.^[29]

Same thing can be said of Atty. Domingo Lalaquit, the second and last witness who professed to be the legal counsel of petitioner since 1973. He noted that he handled petitioner's legal problems only when referred to him by Mr. Valeriano Bueno, then (but now deceased) President of petitioner.^[30] With respect to the subject properties, at the time the matter was referred to him, he found out that these were already sold at public auction.^[31] There is no showing, based on his own testimony, that he was involved in taking care of the legal concerns of the subject properties before or during its tax sale. No wonder, he is not aware of and did not receive any notices of assessment or tax delinquency from respondent Province for and in behalf of petitioner.