

SECOND DIVISION

[G.R. No. 185023, August 24, 2011]

**CITY OF PASIG, REPRESENTED BY THE CITY TREASURER AND
THE CITY ASSESSOR, VS. PETITIONER, REPUBLIC OF THE
PHILIPPINES, REPRESENTED BY THE PRESIDENTIAL
COMMISSION ON GOOD GOVERNMENT, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition^[1] for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 17 October 2008 Decision^[2] of the Court of Appeals in CA-G.R. SP No. 97498, affirming the 6 November 2006 Decision^[3] of the Regional Trial Court (RTC), National Capital Judicial Region, Pasig City, Branch 155, in SCA No. 2901.

The Facts

Mid-Pasig Land Development Corporation (MPLDC) owned two parcels of land, with a total area of 18.4891 hectares, situated in Pasig City. The properties are covered by Transfer Certificate of Title (TCT) Nos. 337158 and 469702 and Tax Declaration Nos. E-030-01185 and E-030-01186 under the name of MPLDC. **Portions** of the properties are leased to different business establishments.

In 1986, the registered owner of MPLDC, Jose Y. Campos (Campos), voluntarily surrendered MPLDC to the Republic of the Philippines.

On 30 September 2002, the Pasig City Assessor's Office sent MPLDC two notices of tax delinquency for its failure to pay real property tax on the properties for the period 1979 to 2001 totaling P256,858,555.86. In a letter dated 29 October 2002, Independent Realty Corporation (IRC) President Ernesto R. Jalandoni (Jalandoni) and Treasurer Rosario Razon informed the Pasig City Treasurer that the tax for the period 1979 to 1986 had been paid, and that the properties were exempt from tax beginning 1987.

In letters dated 10 July 2003 and 8 January 2004, the Pasig City Treasurer informed MPLDC and IRC that the properties were not exempt from tax. In a letter dated 16 February 2004, MPLDC General Manager Antonio Merelos (Merelos) and Jalandoni again informed the Pasig City Treasurer that the properties were exempt from tax. In a letter dated 11 March 2004, the Pasig City Treasurer again informed Merelos that the properties were not exempt from tax.

On 20 October 2005, the Pasig City Assessor's Office sent MPLDC a notice of final

demand for payment of tax for the period 1987 to 2005 totaling P389,027,814.48. On the same day, MPLDC paid P2,000,000 partial payment under protest.

On 9 November 2005, MPLDC received two warrants of levy on the properties. On 1 December 2005, respondent Republic of the Philippines, through the Presidential Commission on Good Government (PCGG), filed with the RTC a petition for prohibition with prayer for issuance of a temporary restraining order or writ of preliminary injunction to enjoin petitioner Pasig City from auctioning the properties and from collecting real property tax.

On 2 December 2005, the Pasig City Treasurer offered the properties for sale at public auction. Since there was no other bidder, Pasig City bought the properties and was issued the corresponding certificates of sale.

On 19 December 2005, PCGG filed with the RTC an amended petition for certiorari, prohibition and mandamus against Pasig City. PCGG prayed that: (1) the assessments for the payment of real property tax and penalty be declared void; (2) the warrants of levy on the properties be declared void; (3) the public auction be declared void; (4) the issuance of certificates of sale be declared void; (5) Pasig City be prohibited from assessing MPLDC real property tax and penalty; (6) Pasig City be prohibited from collecting real property tax and penalty from MPLDC; (7) Pasig City be ordered to assess the actual occupants of the properties real property tax and penalty; and (8) Pasig City be ordered to collect real property tax and penalty from the actual occupants of the properties.

The RTC's Ruling

In its 6 November 2006 Decision, the RTC granted the petition for certiorari, prohibition and mandamus. The RTC held:

The primordial issue to be resolved in the present case is whether or not respondent City of Pasig, through the City Treasurer and the City Assessor, acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it assessed, levied and sold in public auction the "payanig" properties for non-payment of real property taxes.

However, before dwelling on the merits of the main issue, certain matters need to be addressed by the Court, to wit:

1. Does the Court have jurisdiction over the instant petition?
2. Who owns the so-called "payanig" properties that were subjected to payment of real property taxes by respondent?

The Court maintains that it is not precluded from assuming jurisdiction over the instant amended petition which involves the legality of the assailed actions by respondent in assessing and collecting real property tax on the properties owned by the Republic of the Philippines. It is a jurisprudential doctrine that the issue is purely legal when the authority of the respondent to assess and collect real property taxes on the subject properties is being questioned (Ty vs. Trampe, 250 SCRA 500).

x x x x

In the instant proceeding, there is no dispute that the properties are surrendered ill-gotten wealth of former President Marcos. As such, the same assumes [sic] a public character and thus belongs [sic] to the Republic of the Philippines. x x x

x x x x

Hence, upon the voluntary surrender by Jose Y. Campos, the controlling owner of Mid-Pasig and Independent Realty Corporation, of the "payanig" properties to PCGG, a clear admission that these properties were part of the ill-gotten wealth of former President Marcos was already evident. As such, there was already constructive reconveyance to the State, which immediately placed these reconveyed properties under the control and stewardship of the PCGG as representative of the Republic of the Philippines. Under such special circumstance, these voluntary surrendered properties had already belonged to the State.

x x x x

Premised on the foregoing, the "payanig" properties, being part of the recovered ill-gotten wealth of President Marcos, and therefore are owned by the State itself, are exempt from payment of real property taxes. It is only when the beneficial use of said properties has been granted to a taxable person that the same may be subject to imposition of real property tax.

Furthermore, in real estate taxation, the unpaid tax attaches to the property and is chargeable against the taxable person who had actual or beneficial use and possession of it regardless of whether or not he is the owner (Testate Estate of Concordia T. Lim vs. City of Manila, 182 SCRA 482).

In the instant case, the taxable persons being referred to are the lessees occupying and/or doing business therein and have beneficial use over portions within the "payanig" properties.

x x x x

Consequently, there can be no iota of doubt that respondent City of Pasig abused its discretion by committing the acts sought to be annulled herein despite knowledge of the fact that ownership over the subject properties belong to petitioner. But what is more appalling in the instant action is that such abuse was capriciously committed by respondent City of Pasig against the sovereign State itself from where that atxing local government unit derives its very existence. The spring cannot rise higher than its source.

x x x x

In sum, the acts of respondent in assessing real property taxes on properties owned and controlled by the Republic of the Philippines, in

collecting taxes from Mid-Pasig in lieu of the actual occupants or beneficial users of certain portions thereof, and in auctioning said properties in favor of respondent, followed by the corresponding certificate of sale, are all unequivocally tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.

WHEREFORE, in the light of the foregoing, the instant Amended Petition is hereby GRANTED.

Accordingly, the following acts of respondent are hereby ANNULLED and SET ASIDE.

1. the assessment dated September 30, 2002 for the payment of real property taxes and penalties made by the City of Pasig on two (2) parcels of land covered by TCT No. 337158 and TCT No. 469702 registered under the name of Mid-Pasig;
2. the warrants of levy dated November 8, 2005 issued thereon by the City of Pasig;
3. the subsequent public auction sale of subject properties held on December 2, 2005 followed by the issuance of the corresponding Certificate of Sale;

FURTHER, the City of Pasig is hereby PROHIBITED from further:

1. Assessing real property taxes and penalties charges [sic] on the said properties;
2. Collecting said taxes and penalty charges from the State;
3. Disposing or encumbering the subject properties or any portion thereof;

FURTHER, the City of Pasig is hereby COMMANDED:

1. To return or effect the refund of the amount of Two Million Pesos (Php 2,000,000.00) paid under protest by Mid-Pasig Land Development Corporation on October 20, 2005, or credit the same amount to any outstanding tax liability that said corporation may have with the City of Pasig; and
2. To assess and collect from the actual occupants or beneficial users of the subject properties, and not from the State, whatever real property taxes and penalties that may be due on the respective areas occupied by them.

SO ORDERED.^[4]

Pasig City appealed to the Court of Appeals.

The Court of Appeals' Ruling

In its 31 March 2008 Decision,^[5] the Court of Appeals set aside the RTC's 6

November 2006 Decision. The Court of Appeals held:

We find nothing in PCGG's petition that supports its claim regarding Pasig City's alleged grave abuse of discretion. It is undisputed that the subject parcels of land are registered in the name of Mid-Pasig, a private entity. Although the government, through the PCGG have [sic] sequestered Mid-Pasig and all its assets including the subject parcels of land, the sequestration *per se*, did not operate to convert Mid-Pasig and its properties to public property. *"The power of the PCGG to sequester property claimed to be 'ill-gotten' means to place or cause to be placed under its possession or control said property, or any building or office wherein any such property and any records pertaining thereto may be found, including 'business enterprises and entities' -- for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving the same -- until it can be determined, through appropriate judicial proceedings, whether the property was in truth 'ill-gotten,' i.e., acquired through or as a result of improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection or influence, resulting in unjust enrichment of the ostensible owner and great damage and prejudice to the State."* x x x As such, prior to a valid court declaration the *"PCGG cannot perform acts of strict ownership of [sic] sequestered property. It is a mere conservator."* In view thereof and the fact that Mid-Pasig and its properties have not been validly declared by the Sandiganbayan as "ill-gotten" wealth, the same are not yet public properties. The PCGG even admitted that the transfer certificates of title covering the subject parcels of land in the name of Mid-Pasig have not been cancelled due to an order of the Sandiganbayan. The trial court also found that the subject parcels of land are the subject of litigation between Ortigas and Company Limited Partnership and the PCGG in Civil Case No. 0093 pending before the Sandiganbayan. These facts clearly show that the Sandiganbayan has not validly declared yet that the subject parcels of land are "ill-gotten" wealth. If so, they cannot be claimed yet as properties of the State: they remain properties of a private entity. Thus, Pasig City through its City Assessor and City Treasurer did not act with grave abuse of discretion when it issued real property tax assessment on the subject parcels of land.

Even admitting that the subject parcels of land are already owned by the State, we still see no grave abuse of discretion on the part of Pasig City when it issued the challenged tax assessment, for it is well settled that the test of exemptions from taxation is the use of the property for purposes mentioned in the Constitution. The owner of the property does not matter. Even if he is not a tax-exempt entity, as long as the property is being used for religious, charitable or educational purposes, the property is exempt from tax. Conversely, even if the government owns the property, if the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person, the property is subject to tax. Here, the PCGG admitted that portions of the subject properties