

## **FIRST DIVISION**

**[ G.R. Nos. 120435, December 22, 1997 ]**

**ESTATE OF THE LATE MERCEDES JACOB REPRESENTED BY  
MERCEDITA JACOB, DONATO JACOB JR., ERENEO JACOB AND  
LILIAN JACOB QUINTO, PETITIONERS, VS. COURT OF APPEALS,  
SPOUSES RAMON R. TUGBANG AND VIRGINIA S. TUGBANG,  
REGISTER OF DEEDS OF QUEZON CITY AND CITY TREASURER OF  
QUEZON CITY, RESPONDENTS.**

**[G.R. NO. 120974. DECEMBER 22, 1997]**

**CITY TREASURER OF QUEZON CITY, PETITIONER VS. COURT OF  
APPEALS AND BERNARDITA C. TOLENTINO., RESPONDENTS.  
D E C I S I O N**

**BELLOSILLO, J.:**

These two (2) petitions are heard jointly by the Court for the reason that they involve a common issue of jurisdiction over the nature of the action.

### **G.R. No. 120435**

Petitioners allege that in 1981 Mercedes Jacob, registered owner of the land subject matter hereof and covered by Transfer Certificate of Title No. 39178, left for the United States. Before she did, she asked her son-in-law Luciano Quinto Jr. to pay the real estate taxes on her property. However, Luciano Jr. was not allowed to pay by the City Treasurer's Office as he had no written authorization from her. Luciano Jr. and his wife Lilian Jacob Quinto attempted several times to pay but they were as many times refused.

In 1984 respondent City Treasurer of Quezon City sent a notice to Mercedes Jacob through her daughter Lilian Jacob Quinto that her real estate taxes on the property were delinquent. Lilian was also informed that the land was already sold at public auction on 24 August 1983 to private respondent Virginia Tugbang for P6,800.00 to satisfy the tax delinquency of the land.

Mercedes Jacob came to know of the sale on 6 September 1983 when she received from respondent City Treasurer a Notice of Sale of Real Property addressed to her husband. Members of Mercedes' family tried to redeem the property from Virginia Tugbang but she evaded them until the Final Bill of Sale was issued to her.

On 30 September 1985 Virginia filed a petition for the cancellation of TCT No. 39178 and the issuance of a new certificate of title in her name alleging in par. 4 of her petition that -

x x x (On) August 27, 1985, the period of redemption on the sold property having already expired and the registered owner-delinquent

taxpayer, Mercedes Jacob, and any other interested party, did not, within the said period, take any step to redeem the property and pursue any lawful remedy to impeach the proceedings or to enforce any lien or claim thereon, thereby allowing the sale to become final and absolute, [1]

thereby disregarding and frustrating the efforts of the Jacobs to redeem the property after depositing P2,000.00 with the City Treasurer as redemption price. On 3 March 1989 TCT No. 39178 was canceled and TCT No. 81860 was issued in the name of Virginia Tugbang.

On 17 May 1993 petitioners Mercedita Jacob, Donato Jacob, Jr., Ereneo Jacob and Lilian Jacob-Quinto, heirs of the late Mercedes Jacob, filed a complaint with the Regional Trial Court of Quezon City against respondent spouses Ramon R. Tugbang and Virginia S. Tugbang, docketed as Civil Case No. Q-93-15976, for annulment or cancellation of the auction sale, the final bill of sale, TCT No. 81860, and for redemption of the property plus damages. However, the trial court dismissed the petition purportedly for lack of jurisdiction as the petition was deemed to be -

x x x in reality a petition to annul and set aside the Decision rendered on March 13, 1994 by the Regional Trial Court, Quezon City, Branch 106, canceling petitioner Mercedes Jacob's TCT No. 39178 x x x x consolidating title to the property covered thereby in herein private respondent Virginia S. Tugbang, and ordering the issuance of a new title in her favor. [2]

On 12 October 1994 petitioners filed with us a petition for review on certiorari under Rule 45 of the Rules of Court which we certified on 9 November 1994 to the Court of Appeals. The appellate court however dismissed the petition for lack of merit. Thus this petition for reversal of the decision of the Court of Appeals and for judgment directing the RTC - Br. 82, Quezon City, to proceed with the trial of Civil Case No. Q-93-15976.

The petition must be granted. It is axiomatic that the averments of the complaint determine the nature of the action, hence, the jurisdiction of the courts. This is because the complaint must contain a concise statement of the ultimate facts constituting the plaintiff's cause of action and specify the relief sought. [3]

A cursory examination of the petition readily shows that it is an action for reconveyance. The petition states that "petitioners are not after the annulment of the judgment of the Regional Trial Court, Quezon City, Branch 106. The remedy of petitioners under the law is an action for reconveyance the jurisdiction of which is vested in the Regional Trial Court." [4] In *Sevilla v. De los Angeles* [5] reconveyance was allowed where the procurement of a transfer certificate of title was made under circumstances of constructive trust based on fraudulent representations. In the instant case the complaint alleges that respondent Virginia Tugbang procured a transfer certificate of title upon her fraudulent representation in her petition for cancellation of title. This way of acquiring title creates what is called "constructive trust" in favor of the defrauded party and grants to the latter a right to the reconveyance of the property. Thus it has been held that if a person obtains legal title to property by fraud or concealment courts will impress upon the title a so-called "constructive trust" in favor of the defrauded party. The use of the word

"trust" in this sense is not technically accurate but as courts are agreed in administering the same remedy in a certain class of frauds as are administered in fraudulent breaches of trusts, and as courts and the profession have concurred in calling such frauds constructive trusts, there can be no misapprehension in continuing the same phraseology, while a change might lead to confusion and misunderstanding. [6]

In *Alzua v. Johnson* [7] we declared that under our system of pleading it is the duty of the courts to grant the relief to which the parties are shown to be entitled by the allegations in their pleadings and the facts proved at the trial, and the mere fact that they themselves misconstrued the legal effect of the facts thus alleged and proved will not prevent the court from placing the just construction thereon and adjudicating the issue accordingly.

As the petition makes out a case for reconveyance and not a mere annulment of an RTC judgment as viewed under par. (2), Sec. 9, BP Blg. 129, jurisdiction over the case is clearly vested in the Regional Trial Court of Quezon City as provided in par. (2), Sec. 19, BP Blg. 129

Sec. 19. Jurisdiction in civil cases. - Regional Trial Courts shall exercise exclusive original jurisdiction: x x x (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts x x x x

Moreover, the Regional Trial Court has jurisdiction over the petition as it may be considered only as a continuation of the original proceeding for cancellation of title which in view of its non-litigious character is summary in nature. Furthermore, under Sec. 2 of PD 1529 otherwise known as the Property Registration Decree, the jurisdiction of the Regional Trial Court sitting as a land registration court is no longer as circumscribed as it was under the former Land Registration Act (Act 496), so that now a Regional Trial Court, like the RTC of Quezon City which issued a new title to respondent Virginia Tugbang in lieu of the old one, has the authority to act not only on applications for original registration but also over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petitions. [8]

As to whether such an action should be granted requires further evidence culled from a full-blown trial; hence, Civil Case No. Q-93-15976 previously dismissed by the trial court should be reinstated so that the parties may be able to present their evidence.

#### **G.R. No. 120974**

Alberto Sta. Maria owned a parcel of land covered by TCT No. 68818 which he sold in 1964 to Teresa L. Valencia who, as a consequence, had the title canceled and TCT No. 79818 issued in her name. She however failed to have the tax declaration transferred in her name. Thus she paid the real estate taxes from 1964 to 1978 in the name of its previous owner Alberto Sta. Maria.

On 20 December 1973 Valencia entered into a contract of sale of the property on

installment with a mortgage in favor of respondent Bernardita C. Tolentino. However, from 1979 to 1983 Valencia failed to pay the real estate taxes due on the land. As a result, notices of tax delinquency and intent to sell the property [9] were sent to Alberto Sta.

Maria's address which was simply stated as "Olongapo, Zambales." The notices were then returned to petitioner City Treasurer of Quezon City for a "better complete address." [10]

In the auction sale on 29 February 1984 the spouses Romeo and Verna Chua bought the land in question, which was already covered by TCT No. 79818 in the name of Teresa L. Valencia. On 5 March 1984 a certificate of sale was issued to the Chua spouses but it showed on its face that the land was still covered by TCT No. 68818 and not TCT No. 79818. Apparently, the Office of the City Treasurer was unaware that TCT No. 68818 had already been canceled by TCT No. 79818. However, in the Final Bill of Sale issued to the Chua spouses on 15 May 1985 TCT No. 79818 still appeared in the name of Alberto Sta. Maria, the former owner, [11] so that the vendee spouses lost no time in filing a petition with the Regional Trial Court of Quezon City for the cancellation of TCT No. 79818 and the issuance of a new title in their name. On 4 February 1987 the court granted their petition and TCT No. 357727 was issued in the name of the spouses Romeo and Verna Chua.

In the meantime, on 2 February 1987, respondent Bernardita C. Tolentino paid in full the purchase price of the property so that Teresa L. Valencia executed a deed of absolute sale in her favor. On 2 August 1988, in view of the fire that gutted the Office of the Register of Deeds of Quezon City, Tolentino filed a petition for reconstitution of TCT No. 79818.

Sometime in April 1989, as purchasers of the property in the auction sale, the Chuas demanded delivery of possession from Bernardita C. Tolentino and Teresa L. Valencia. As a consequence, Tolentino sued for annulment of the auction sale in the Regional Trial Court of Quezon City. Finding the action to be well taken, the trial court granted the petition. The Court of Appeals affirmed the court a quo. Hence this petition for review on certiorari by the City Treasurer of Quezon City under Rule 45 of the Rules of Court.

Petitioner City Treasurer cites *Galutira v. Ramones*, [12] a decision of the Court of Appeals, in support of his position that the trial court has no jurisdiction over the case as it is one for annulment and cancellation of TCT No. 357727 which is vested in the Court of Appeals pursuant to par. (2), Sec. 9, BP Blg. 129. [13] In *Galutira* it was held that "in the law of pleading, courts are called upon to pierce the form and go into the substance, not to be misled by a false or wrong name given to a pleading because the title thereof is not controlling and the court should be guided by its averments x x x x" Apparently the ruling is contrary to petitioner's very own position. While the complaint of Bernardita C. Tolentino is captioned as one for annulment of auction sale with damages, it is not an action for annulment of judgment which should be filed with the Court of Appeals. In fact, from the allegations in the complaint it can be gathered that a reconveyance was intended by Tolentino, in which case, jurisdiction is vested in the trial court.

Under Sec. 55 of the Land Registration Act, as amended by Sec. 53 of PD No. 1529,

[14] an original owner of registered land may seek the annulment of the transfer thereof on the ground of fraud and the proper remedy is reconveyance. However, such remedy is without prejudice to the rights of an innocent purchaser for value holding a certificate of title.

As regards the propriety of the nullification of the auction sale in the instant case, which still remains unresolved, petitioner submits that he had done everything incumbent upon him to do in proceeding with the auction sale. Besides, not only was original vendee Valencia remiss in her obligation to secure a new tax declaration in her name but she likewise failed to pay the real property taxes for 1979 to 1983. Therefore, petitioner City Treasurer of Quezon City reiterates, the validity of the auction sale should instead be sustained conformably with *Estella v. Court of Appeals*. [15]

Section 73 of PD No. 464 provides -

Sec. 73. Advertisement of sale of real property at public auction. - After the expiration of the year for which the tax is due, the provincial or city treasurer shall advertise the sale at public auction of the entire delinquent real property, except real property mentioned in subsection (a) of Section forty hereof, to satisfy all the taxes and penalties due and the costs of sale. Such advertisement shall be made by posting a notice for three consecutive weeks at the main entrance of the provincial building and of all municipal buildings in the province, or at the main entrance of the city or municipal hall in the case of cities, and in a public and conspicuous place in (the) barrio or district wherein the property is situated, in English, Spanish and the local dialect commonly used, and by announcement for at least three market days at the market by the crier, and, in the discretion of the provincial or city treasurer, by publication once a week for three consecutive weeks in a newspaper of general circulation published in the province or city.

The notice, publication, and announcement by crier shall state the amount of the taxes, penalties and costs of sale; the date, hour, and place of sale, the name of the taxpayer against whom the tax was assessed; and the kind or nature of property and, if land, its approximate area, lot number, and location stating the street and block number, district or barrio, municipality and the province or city where the property to be sold is situated (*italics supplied*).

Copy of the notice shall forthwith be sent either by registered mail or by messenger, or through the barrio captain, to the delinquent taxpayer, at his address as shown in the tax rolls or property tax record cards of the municipality or city where the property is located, or at his residence, if known to said treasurer or barrio captain; Provided, however, that a return of the proof of service under oath shall be filed by the person making the service with the provincial or city treasurer concerned (*italics supplied*).

There is no dispute that the requirements of law as regards posting of the notice, publication and announcement by crier have been complied with. [16] The