



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECORDED
JUL 11 2022
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TIME: _____

SECOND DIVISION

**EASTERN
INVESTMENTS
DEVELOPMENT
CORPORATION,**

**HEIGHTS
AND**

G.R. No. 240671

Present:

Petitioner,

PERLAS-BERNABE, S.A.J.,
Chairperson,

HERNANDO,

INTING,

GAERLAN,* and

LOPEZ, J.,** JJ.

- versus -

**TAGUMPAY REALTY
CORPORATION and
REGISTER OF DEEDS OF
RIZAL (ANTIPOLO CITY),
*Respondents.***

Promulgated:

DEC 06 2021

X-----X

RESOLUTION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated November 7, 2017 and the Resolution³ dated July 11, 2018 of the Court of Appeals (CA) in CA-G.R. CV No. 107794. The assailed Decision affirmed the Decision⁴ dated August 7, 2015 of Branch 98, Regional Trial Court (RTC), Antipolo City in LRC Case No. 12-5570; while the assailed Resolution denied the Motion for Reconsideration⁵ of the assailed Decision.

* On official leave.

** Designated additional Member per Raffle dated November 29, 2021.

¹ *Rollo*, pp. 8-45.

² *Id.* at 180-191; penned by Associate Justice Pedro B. Corales with Associate Justices Japar B. Dimaampao and Amy C. Lazaro-Javier (now both Members of the Court), concurring.

³ *Id.* at 192-194.

⁴ *Id.* at 128-131; penned by Presiding Judge Ma. Consejo Gengos-Ignalaga.

⁵ *Id.* at 170-178

The Antecedents

The case involves a Petition⁶ for surrender of withheld duplicate certificate of title and/or its cancellation and for the issuance of a new transfer certificate of title in favor of Tagumpay Realty Corporation (respondent) as the new owner which purchased a 330-square meter property situated in Barrio Dolores, Taytay, Rizal registered in the name of Eastern Heights Investments and Development Corporation (petitioner) under Transfer Certificate of Title (TCT) No. 285425⁷ (subject property) in a tax delinquency sale.⁸

Respondent won as the highest bidder of the subject property in the public auction for tax delinquent properties in the Provincial Capitol of Antipolo City. The Rizal Provincial Treasurer issued a certificate of sale to respondent which was annotated on the title to the subject property.⁹

After the lapse of the one-year period of redemption, a deed of conveyance/final deed of sale was issued to respondent. However, petitioner did not surrender its owner's duplicate copy of its TCT to the Register of Deeds.¹⁰ This prompted respondent to file the petition against petitioner before the RTC.

In response, petitioner averred, through a Voluntary Special Appearance and Urgent Motion to Dismiss,¹¹ that the petition impleaded a different entity, identified as "Eastern Heights Investments," which was not served with summons and notice of hearing. In addition, petitioner argued that the auction sale should be nullified for lack of demand upon the registered owner for the payment of realty tax. It further argued that it did not receive a notice of levy, or a certificate of sale, or a deed of conveyance which is in violation of Sections 254 and 258 of Republic Act No. (RA) 7160, otherwise known as the Local Government Code of 1991.¹²

⁶ *Id.* at 46-52.

⁷ *Id.* at 53-57.

⁸ *Id.* at 182.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 66-70

¹² Approved on October 10, 1991.

As a result, respondent moved to amend the petition in order to implead petitioner, which was inadvertently referred to as “EHI” in the original petition.¹³

Petitioner opposed the amendment and stressed that to allow it would confer jurisdiction upon the RTC which had no jurisdiction over its person for lack of service of summons; and that the RTC had no jurisdiction over the subject matter because, as a land registration court, it could only exercise jurisdiction to issue a new title when the validity of the tax sale is not being questioned,¹⁴ as elucidated in *Alto Surety & Insurance Co., Inc. v. Limcaco, et al.*¹⁵ (*Alto*) and *Tagaytay-Taal Tourist Dev't Corporation v. CA.*¹⁶

In an Order¹⁷ dated September 26, 2013, the RTC allowed the amendment. It ruled that the failure to implead “EHI” as a respondent was a mere typographical or purely technical error. Petitioner moved¹⁸ for a reconsideration, but the RTC denied the motion.¹⁹

Trial ensued. Petitioner’s counsel attended the initial hearing for respondent’s presentation of evidence which, however, was reset. On the next scheduled hearing, petitioner’s counsel failed to attend despite due notice. Thus, the RTC allowed respondent to present its evidence *ex-parte*.²⁰

The Ruling of the RTC

On August 7, 2015, the RTC granted the petition after finding that respondent fully substantiated its allegations warranting petitioner’s surrender and/or cancellation of TCT No. 285425. The dispositive portion of the RTC Decision²¹ reads:

WHEREFORE, on the basis of the foregoing, the petition for surrender and/or cancellation of Transfer Certificate of Title No.

¹³ See Comment with Motion dated December 26, 2012, records, pp. 29-34.

¹⁴ See Reply and Opposition dated February 14, 2013, *rollo*, pp. 74-85.

¹⁵ 105 Phil. 295 (1959).

¹⁶ 339 Phil. 377 (1997).

¹⁷ *Rollo*, pp. 101-103.

¹⁸ See Motion for Reconsideration dated November 27, 2013, records, pp. 81-84.

¹⁹ See Order dated April 21, 2014, *rollo*, p. 113.

²⁰ *Id.* at 129.

²¹ *Id.* at 128-131.

285425 is GRANTED.

Accordingly, respondent Eastern Heights Investments and Development Corporation is directed to surrender the owner's duplicate copy of Transfer Certificate of Title No. 285425 to the Register of Deeds for the Province of Rizal, within fifteen (15) days from receipt of this Decision. Upon such surrender or non-surrender, the Registry of Deeds for the Province of Rizal is directed to cause the cancellation of the said owner's duplicate. After the payment of the required fees, the Registry of Deeds for the Province of Rizal is directed to issue a new owner's copy of Transfer Certificate of Title No. 285425 in the name of petitioner Tagumpay Realty Corporation in accordance with Section 107 of Presidential Decree No. 1529 with a memorandum in its dorsal portion of the annulment of the outstanding duplicate.

Let this Decision be published once a week for two (2) consecutive weeks in a newspaper of general circulation and a copy thereof be sent to respondent Eastern Heights Investments and Development Corporation at Liberty Building, Pasay Road, Makati City and Atty. Oliver Misador.

SO ORDERED.²²

Petitioner filed a Motion for Reconsideration,²³ but the RTC denied it in an Order²⁴ dated June 24, 2016.

The Ruling of the CA

In the assailed Decision²⁵ dated November 7, 2017, the CA found no reversible error on the part of the RTC when it granted the petition in favor of respondent.

The CA declared that the amendment of the petition was proper pursuant to Section 19 of Presidential Decree No. (PD) 1529²⁶ which allows amendments to the petition, including the substitution of parties, at any stage of the proceeding under just and reasonable terms. It further declared that the discrepancy in the name of the petitioner was merely due to inadvertence; and that its correction would not be prejudicial to the adverse party when taken together with the statements and

²² *Id.* at 131.

²³ *Id.* at 133-140.

²⁴ *Id.* at 141

²⁵ *Id.* at 180-191.

²⁶ Property Registration Decree, promulgated on June 11, 1973.

inscriptions on the documents attached to the petition as annexes or integral parts.²⁷

As to the issue on jurisdiction, the CA observed that petitioner voluntarily submitted to the jurisdiction of the RTC by seeking an affirmative relief, other than for the dismissal of the petition on the ground of lack of jurisdiction over its person. It noted that petitioner sought the declaration of the nullity of the tax delinquency sale due to irregularities; and that in its Motion for Reconsideration, it failed to reiterate its argument of lack of jurisdiction over its person. Thus, it ruled that the RTC had jurisdiction over the subject matter under Sections 75²⁸ and 107²⁹ of PD 1529 because respondent was seeking the issuance of a new certificate of title pursuant to its purchase at the tax delinquency sale.³⁰

Further, the CA ruled that the RTC cannot entertain the issue as to the validity of the public auction for tax delinquent properties wherein respondent was the highest bidder because petitioner never alleged, much less proved, that it has properly challenged the tax sale by complying with the jurisdictional requirement set forth in Section 267³¹

²⁷ *Rollo*, pp. 186-187.

²⁸ Section 75 of Presidential Decree No. (PD) 1529 provides:

SECTION 75. *Application for New Certificate Upon Expiration of Redemption Period.* — Upon the expiration of the time, if any, allowed by law for redemption after registered land has been sold on execution taken or sold for the enforcement of a lien of any description, except a mortgage lien, the purchaser at such sale or anyone claiming under him may petition the court for the entry of a new certificate of title to him.

Before the entry of a new certificate of title, the registered owner may pursue all legal and equitable remedies to impeach or annul such proceedings.

²⁹ Section 107 of PD 1529 provides:

SECTION 107. *Surrender of Withheld Duplicate Certificates.* — Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if not any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

³⁰ *Rollo*, pp. 187-189.

³¹ Section 267 of Republic Act No. (RA) 7160 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

of RA 7160 on deposit.³²

On July 11, 2018, the CA issued the assailed Resolution³³ denying petitioner's Motion for Reconsideration.³⁴

Aggrieved, petitioner elevated the case to the Court *via* a Petition for Review on *Certiorari*.

The Issues

The issues raised in the petition are as follows: (a) whether the CA erred in ruling that the amendment of the petition was proper; (b) whether the CA erred in ruling that the RTC had jurisdiction; and (c) whether the CA erred in ruling that petitioner cannot challenge the validity of the tax sale without complying with Section 267 of RA 7160 on the required deposit.

The Court's Ruling

The petition is devoid of merit.

The CA correctly affirmed the amendment of the petition to rectify the name of the petitioner from "Eastern Heights Investments" to "Eastern Heights Investments and Development Corporation."

There was no denial of petitioner's right to due process of law when the petition was amended to correct "Eastern Heights Investments" to "Eastern Heights Investments and Development Corporation." The lower courts aptly observed that the amendment was merely a formal

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.

³² *Rollo*, pp. 189-190.

³³ *Id.* at 192-194.

³⁴ *Id.* at 170-178

one intended to correct a clearly clerical or typographical error.³⁵ This is evident from an examination of the attachments to the petition such as the TCT, the tax declaration, certificate of sale, and the deed of conveyance, which were all in the name of petitioner Eastern Heights Investments and Development Corporation.³⁶

Moreover, pursuant to Section 2,³⁷ Rule 10 of the Rules of Court, respondent could still amend its petition once as a matter of right because no responsive pleading had yet been filed by petitioner. What petitioner filed was a motion to dismiss, which is not a responsive pleading.

Corollarily, the RTC acquired jurisdiction over the person of petitioner.

The Court agrees that voluntary appearance can cure the defect in the service of summons. Despite the lack of a valid service of summons, a court acquires jurisdiction over the person of a defendant through the latter's voluntary appearance in court.

Petitioner filed a Voluntary Special Appearance and Urgent Motion to Dismiss which sought: 1) the dismissal of the petition for lack of jurisdiction over the person of Eastern Heights Investments on the ground of lack of service of summons; and 2) the nullification of the tax delinquency sale due to alleged irregularities.

At the time of the filing of petitioner's Voluntary Special Appearance and Urgent Motion to Dismiss, the pertinent rule as regards voluntary appearance and submission to the court's jurisdiction despite the lack of a valid service of summons is Section 20, Rule 14 of the Rules of Court which states:

Sec. 20. *Voluntary appearance.* — The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack

³⁵ *Id.* at 103.

³⁶ *Id.* at 102-103.

³⁷ Section 2, Rule 10 of the Rules of Court provides:

SECTION 2. *Amendments as a Matter of Right.* — A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served.

of jurisdiction over the person shall *not* be deemed a voluntary appearance. (Italics supplied.)

The Court emphasizes that under the above-quoted provision, the mere inclusion in a motion to dismiss of grounds other than lack of jurisdiction is not equivalent to voluntary appearance. As can be gleaned from the provision, there is no voluntary appearance despite the inclusion of other grounds of objection so long as defendant raises the issue of lack of jurisdiction.³⁸ On this score, the Court disagrees with the CA when it considered petitioner to have voluntarily appeared before the RTC based on its invocation in its motion to dismiss of additional grounds other than the lack of jurisdiction over its person.

*However, the Court underscores that the situation is now different with the effectivity of the 2019 Amended Rules of Civil Procedure which explicitly considers as voluntary appearance the inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant.*³⁹

Notwithstanding the foregoing considerations, the Court finds that the RTC validly acquired jurisdiction over the person of petitioner.

Significantly, what petitioner filed was not a mere motion to dismiss but a “Voluntary Special Appearance and Urgent Motion to Dismiss.” As explicitly stated in Section 20, Rule 14 of the then Rules of Court, “[t]he defendant’s voluntary appearance in the action shall be equivalent to service of summons.” Considering that petitioner’s voluntary appearance in this case is denominated as “special,” such appearance is deemed to be for that specific instance only.

In any case, petitioner’s subsequent conduct demonstrated its voluntary submission to the court’s jurisdiction. Petitioner was represented by Atty. Oliver Misador (Atty. Misador), who was its counsel of record from the filing of the Voluntary Special Appearance and Urgent Motion to Dismiss up to the filing of the instant petition. Despite the RTC’s denial of petitioner’s Voluntary Special Appearance

³⁸ *G.V. Florida Transport, Inc. v. Tiara Commercial Corp.*, 820 Phil. 235, 252 (2017).

³⁹ Section 23, Rule 14 of the 2019 Amended Rules of Civil Procedure provides:

SECTION 23. Voluntary Appearance.—The defendant’s voluntary appearance in the action shall be equivalent to service of summons. *The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall be deemed a voluntary appearance.* (Italics supplied.)

and Urgent Motion to Dismiss, Atty. Misador still appeared during respondent's presentation of evidence *ex-parte*, albeit canceled and reset.⁴⁰ After the RTC rendered an adverse decision, petitioner filed a Motion for Reconsideration. Upon denial of the motion, it filed a Notice of Appeal, which was given due course. It then filed its Appellant's Brief before the CA. The grounds raised in the Motion for Reconsideration and in the appeal, among others, are the alleged invalidity of the tax delinquency sale and lack of jurisdiction of the court over the person of petitioner and the subject matter.

The appearances of petitioner's counsel before the court and his timely filing of pleadings demonstrated petitioner's active participation tantamount to a voluntary appearance in court. Indeed, petitioner submitted itself to the court's jurisdiction which is equivalent to a valid service of summons. By its presence during the hearing and its concomitant filing of numerous pleadings, petitioner confirmed that notice was effected upon it and that it was adequately notified of the proceedings for it to sufficiently defend its interests in the observance of its due process rights.⁴¹

The RTC is vested with jurisdiction to resolve the petition for the surrender of the withheld title.

The proceedings before the RTC in the petition for the surrender of TCT No. 285425 were conducted in accordance with Sections 75 and 107 of PD 1529, or the Property Registration Decree.

Contrary to petitioner's stance, *Alto*⁴² is not applicable in the case. In *Alto*, the petition for cancellation of title and issuance of a new one after the purchase of a property sold during a public auction was filed by the purchaser in the same court where it initially filed the complaint for collection/recovery of a sum of money against the property owner. The Court ruled therein that the court exceeded its jurisdiction in granting the petition for cancellation and issuance of a new title which was filed in the collection/recovery of sum of money case because land registration proceedings are separate and distinct from ordinary civil actions.⁴³

⁴⁰ *Rollo*, p. 129.

⁴¹ See *People's General Insurance Corp. v. Guansing*, G.R. No. 204759, November 14, 2018.

⁴² *Supra* note 15.

⁴³ *Id.* at 296-297.

Unlike in *Alto*, respondent filed the petition below as an original action before the RTC sitting not only as a land registration court but also as a court of general jurisdiction.

With respect to the power of the RTC to hear and decide contentious and substantial issues, such as whether the tax delinquency sale of the subject property is valid, Section 2⁴⁴ of PD 1529 confers broad jurisdiction upon the RTC with power to hear and determine all questions arising upon such petition.⁴⁵

While the validity of the tax delinquency sale was also raised in the petition filed under Sections 75 and 107 of PD 1529, it should be pointed out that because the distinction between the general jurisdiction vested in the RTC and the limited jurisdiction conferred upon it as a cadastral court was eliminated, the RTC now has the power to hear and determine all questions, even contentious and substantial ones, arising from applications for original registration of titles to lands and petitions filed after such registration.⁴⁶ Whether the RTC resolves an issue in the exercise of its general jurisdiction or of its limited jurisdiction as a special court is only a matter of procedure and has nothing to do with the question of jurisdiction.⁴⁷

Consequently, the 1995 case of *Tagaytay-Taal Tourist Dev't Corporation v. CA*⁴⁸ cited by petitioner which held that substantial or controversial matters raised before the RTC sitting as a land registration or cadastral court are beyond said court's jurisdiction was already abandoned.

⁴⁴ Section 2 of PD 1529 provides:

SECTION 2. *Nature of Registration Proceedings; Jurisdiction of Courts.* — x x x

Courts of First Instance shall have exclusive jurisdiction over all applications for original registration of title to lands, including improvements and interests therein, and over all petitions filed after original registration of title, with power to hear and determine all questions arising upon such applications or petitions. The court through its clerk of court shall furnish the Land Registration Commission with two certified copies of all pleadings, exhibits, orders, and decisions filed or issued in applications or petitions for land registration, with the exception of stenographic notes, within five days from the filing or issuance thereof.

⁴⁵ See *Privatization and Management Office v. Quesada, et al.*, 818 Phil. 655 (2017); See also *PNB v. International Corporate Bank*, 276 Phil. 551 (1991).

⁴⁶ *Lozada v. Bracewell, et al.*, 731 Phil. 128, 137 (2014), citing *PNB v. International Corporate Bank*, 276 Phil. 551, 558-559 (1991).

⁴⁷ *Id.*

⁴⁸ *Supra* note 16.

Notably, before the enactment of PD 1529, jurisprudence had established that summary reliefs such as an action to compel the surrender of owner's duplicate certificate of title to the Register of Deeds could only be filed with and granted by the RTC sitting as a land registration court if there was unanimity among the parties or there was no adverse claim or serious objection on the part of any party-in-interest. Otherwise, if the case had become contentious and controversial, it should be threshed out in an ordinary action or in the case where the incident properly belonged.⁴⁹

However, by virtue of Section 2 of PD 1529, the distinction between the general jurisdiction vested in the RTC and the limited jurisdiction on the cadastral/land registration court was not only extinguished. The change has also simplified registration proceedings by conferring upon the RTC 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 upon such applications or petitions.⁵⁰ Ultimately, multiplicity of suits has been avoided and the expeditious disposition of cases is achieved.⁵¹

Under the circumstances, it is not disputed that petitioner had the right to avail itself of legal and equitable remedies to nullify the tax delinquency sale as provided under Section 75 of PD 1529. In the same manner, nothing prevented petitioner to litigate the issue in the court below. However, because of its failure to appear during the proceedings below despite due notice to its counsel, the RTC allowed respondent to present its evidence *ex-parte*; thus, leaving the RTC with no choice but to rule based only on respondent's evidence presented during the proceedings.

More importantly, petitioner's non-compliance with the jurisdictional requirement before assailing the validity of a tax sale prevented the RTC from hearing its opposition to the petition.

There is no basis for petitioner's argument that Section 267 of RA 7160 or the Local Government Code applies only to an appeal from the ruling of the local assessor. Section 267 provides for the jurisdictional

⁴⁹ *Ligon v. CA*, 314 Phil. 689, 696-697 (1995).

⁵⁰ *Id.* at 697.

⁵¹ *Id.*

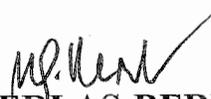
requirement of deposit with the court of the amount for which the property was sold, plus interest from the date of sale up to the institution of the action assailing the validity of tax sale. The CA properly affirmed the RTC's refusal to act on petitioner's opposition for non-compliance with the jurisdictional requirement of deposit. Thus, the CA did not err in declaring that petitioner's failure to comply with Section 267 of RA 7160 did not constitute as a valid challenge to the tax delinquency sale, which, as a consequence, remained valid and legally binding. Because the tax delinquency sale remained uncontested, the surrender of the withheld duplicate copy of petitioner's certificate of title, the cancellation of such certificate of title, and the issuance of a new one to its new owner, herein respondent, are proper.

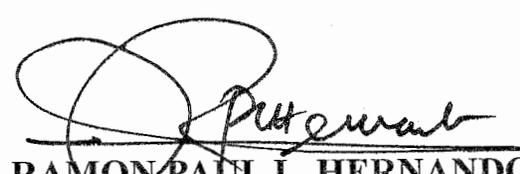
WHEREFORE, the petition is **DENIED**. The Decision dated November 7, 2017 and the Resolution dated July 11, 2018 of the Court of Appeals in CA-G.R. CV No. 107794 are hereby **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

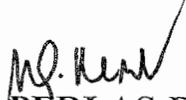

RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
SAMUEL H. GAERLAN
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

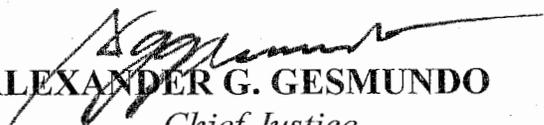
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

