



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

VALBUENCO, INC.,

Petitioner,

G.R. No. 173829

- versus -

Present:

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.

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

Promulgated:

JUN 10 2013

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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 Decision⁴ and

¹ In the Entry of Appearance with Manifestation and Motion for Extension of Time to File Comment filed before this Court on November 21, 2006, counsel for respondents stated that the incumbent Governor of the Province of Bataan is Enrique T. Garcia, Jr. and the present Provincial Treasurer is Emerlinda S. Talento (*Rollo*, pp. 299-303).

² In his Motion filed on October 17, 1996, Emmanuel M. Aquino manifested that he was already assigned as Registrar of the Register of Deeds of Olongapo City effective April 1, 1993. (*Records*, pp. 43-44)

³ *Supra* note 1.

⁴ Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Portia Aliño-Hormachuelos and Mariano C. Del Castillo (now Supreme Court Associate Justice) concurring; *rollo*, pp. 45-57.

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July 18, 2006 Resolution⁵ of the Court of Appeals (CA) in CA-G.R. CV No. 81191 affirming the August 19, 2003 Decision⁶ of the Regional Trial Court (RTC), Branch 1, Balanga City, Bataan, which dismissed the civil complaint filed by petitioner.

Petitioner Valbuenco, 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 ₱1,364,330.00 as of 1994.

Due to petitioner's unpaid real property taxes, the above-mentioned properties were sold at public auction sometime in 1987 or 1988⁷ 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 (₱70,762.90).

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 (₱70,762.90), 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 preceding (*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];

⁵ *Id.* at 60-61.

⁶ *Id.* at 170-180.

⁷ TSN, October 25, 2002, pp. 6-7.

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 x⁸

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;

⁸

Records, pp. 2-3.

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 x⁹

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 Complaint¹⁰ 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 ₱70,762.90 and ₱62,271.00, 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-

⁹ *Id.* at 35. (Underscoring in the original.)

¹⁰ *Id.* at 135-154.

¹¹ G.R. No. 86889, December 4, 1990, 192 SCRA 51.

¹² Records, pp. 201-202.

Notably, Section 83 of Presidential Decree No. 464 provide:

Sec. 83. *Suits assailing validity of tax sale.* – No court shall entertain any suit assailing the validity of a tax sale of real estate under this Chapter until the taxpayer shall have paid into court the amount for which the real property was sold, together with interests of twenty per centum per annum upon that sum from the date of sale to the time of instituting suit. The money so paid into court shall belong to the purchaser at the tax sale if the deed is declared invalid, but shall be returned to the depositor if the action fails.

Neither shall any court declare a sale invalid by reason of irregularities or informalities in the proceedings committed by the officer charged with the duty of making sale, or by reason of failure by him to perform his duties within the time herein specified for their performance, unless it shall have been proven that such irregularities, informalities or failure have impaired the substantial rights of the taxpayer.

¹³ *Id.* at 283-286.

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 1¹⁴ (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 57¹⁵ of RA 6657, Section 34¹⁶ 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

¹⁴ SECTION 1. *Primary and Exclusive Original and Appellate Jurisdiction.* The Board shall have primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657, Executive Order Nos. 228, 229, and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations. Specifically, such jurisdiction shall include but not be limited to cases involving the following:

x x x x

f) Those involving the issuance, correction and cancellation of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;

g) Those cases previously falling under the original and exclusive jurisdiction of the defunct Court of Agrarian Relations under Section 12 of Presidential Decree No. 946, except sub-paragraph (q) thereof and Presidential Decree No. 815.

x x x x

¹⁵ Section 50. *Quasi-Judicial Powers of the DAR.* — The DAR is hereby vested with the primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR). x x x

Section 57. *Special Jurisdiction.* — The Special Agrarian Courts shall have original and exclusive jurisdiction over all petitions for the determination of just compensation to landowners, and the prosecution of all criminal offenses under this Act. x x x

¹⁶ Section 34. *Implementing Authority of the Secretary.* The Secretary shall issue orders, rules and regulations and other issuances as may be necessary to ensure the effective implementation of the provisions of this Executive Order.

¹⁷ Records, p. 313.

¹⁸ *Id.* at 325.

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 ₱50,000.00 as attorney's fees.

The clerk of court of the Regional Trial Court of Bataan is hereby ordered to refund the sum of ₱133,033.90 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

¹⁹ *Id.* at 676. (Emphasis in the original.)

²⁰ Took effect on June 1, 1974 (See *Meralco Securities Industrial Corporation v. Central Board of Assessment Appeals, et al.*, 199 Phil. 453, 458 [1982] and *De Asis v. Intermediate Appellate Court*, 251 Phil. 294, 305 [1989]) but was later on superseded by R.A. No. 7160 or the Local Government Code of 1991, which took effect on January 1, 1992 (See *Cagayan Electric Power and Light Co., Inc. v. City of Cagayan De Oro*, G.R. No. 191761, November 14, 2012 and *Moday v. CA*, 335 Phil. 1057, 1063 [1997]).

²¹ *De Knecht v. CA*, 352 Phil. 833, 847 (1998). See also *Aquino v. Quezon City*, 529 Phil. 486, 500 (2006); *Talusan v. Tayag*, 408 Phil. 373, 387 (2001); and *Pecson v. Court of Appeals*, G.R. No. 105360, May 25, 1993, 222 SCRA 580, 583.

²² *Id.*

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

²³ In particular, Sections 65 and 73 of PD 464 mandate:

Sec. 65. *Notice of delinquency in the payment of the real property tax.* – Upon the real property tax or any installment thereof becoming delinquent, the provincial or city treasurer shall immediately cause notice of the fact to be posted at the main entrance of the provincial building and of all municipal buildings or municipal or city hall and in a public and conspicuous place in each *barrio* of the municipality of the province or city as the case may be. The notice of delinquency shall also be published once a week for three consecutive weeks, in a newspaper of general circulation in the province or city, if any there be, and announced by a crier at the market place for at least three market days.

Such notice shall specify the date upon which tax became delinquent, and shall state that personal property may be seized to effect payment. It shall also state that, at any time, before the seizure of personal property, payment may be made with penalty in accordance with the next following section, and further, that unless the tax and penalties be paid before the expiration of the year for which the tax is due, or the tax shall have been judicially set aside, the entire delinquent real property will be sold at public auction, and that thereafter the full title to the property will be and remain with the purchaser, subject only to the right of delinquent taxpayer or any other person in his behalf to redeem the sold property within one year from the date of sale.

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 *barrio* or district wherein the property is situated, in English, Spanish and the local dialect commonly used, and by announcement at least three market days at the market by 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 areas, 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. 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.

²⁴ TSN, June 4, 2001, pp. 8, 10; TSN, July 9, 2001, p. 2.

²⁵ *Id.* at 8; *Id.* at 4.

²⁶ *Id.* at 8-9; *Id.* at 5-6.

²⁷ TSN, July 9, 2001, pp. 6-7.

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.

The Court cannot simply rely on the representation of Juan and Atty. Lalaquit that there was no notice of assessment and/or demand for payment of tax delinquency made by respondents because it was what Mr. Bueno told them so in a "conversation."³² Conformably with the hearsay rule,³³ the trial court correctly allowed the questions propounded by petitioner's counsel to Juan and Atty. Lalaquit but only insofar as they testify that a "conversation"

²⁸ *Id.* at 7.

²⁹ *Id.* at 8-9. (Emphasis ours.)

³⁰ TSN, August 27, 2001, p. 3.

³¹ *Id.* at 4.

³² TSN, June 4, 2001, pp. 10-11; TSN, August 27, 2001, p. 8.

³³ Rules of Court, Rule 130, Sec. 36.

took place and not necessarily admitting as true the alleged utterance of Mr. Bueno.

Neither can We bank on Juan's mere assumption and speculation nor on his inconsistency, if not confused, testimony:

Q: When you said that the corporation was not notified by the Provincial Treasurer you are assuming that must have been so because you could not find any record of any notice?

A: I have not seen any notice, sir.

Q: And so you presumed that there must have been no notice?

A: Precisely, sir.

Q: When you said [“]precisely[,]” you mean [“]yes[”]?

A: Yes, sir.

Q: In the same manner that when you said that you have not received any notice of assessment you surmised that there must have been no or you have no record of notice of assessment?

x x x

That's why you assumed that there was no assessment?

A: Yes, sir.

Q: In the same manner when you [testified] that there was no demand made by the Provincial Treasurer you, according to you[,] you have not received any, you assumed that there was no demand because according to you all records were lost?

A: Yes, sir.

Q: When you stated that there was no levy, distraint, you have to give the same reason because that is your assumption and opinion on your part because you have no record of the levy?

A: We have not seen that, sir.

Q: You have not seen because according to you all records of the corporation were lost?

A: Not exactly[,] it must have been kept in the office, sir, but I have not noticed.

Q: What do you mean that you have no notice? In other words there must have been records but you have no notice?

A: Yes, sir.³⁴

x x x x

ATTY. BANZON:

Q: x x x Why do you have to ask Mr. Bueno regarding the assessment?

A: Because he is concerned about the property, sir.

³⁴ TSN, August 10, 2001, pp. 3-5. (Emphasis ours.)

Q: But, you were the one who asked[,] it is not Mr. Bueno?

A: No, sir I did not ask Mr. Bueno.

Q: In your testimony of June 4 of this year the question asked of you was [“]did you not ask the president if there was a notice of assessment[?”] and your answer was [“yes, sir.”].

Do you recall that you have asked that question and you made that answer?

A: Yes, sir.

Q: So, you asked Mr. Bueno?

A: No, sir I did not ask Mr. Bueno. [He] was the one [who probably] told me, sir.

Q: So, your answer to the question is not correct?

A: I think so, sir.

Q: Do you recall of any other question which you answered is not correct (*sic*)?

A: No more, sir.

Q: All are correct?

A: Maybe, sir.

Q: When you said “maybe”, you are not sure that your answer is not correct?

A: Specifically yes I said maybe.

Q: Do you know the meaning of [“]maybe[”]?

A: Not sure, sir.

Q: When you said [“]maybe[”], you are not sure that your other previous answers were correct?

A: Yes, sir.³⁵

Reading through the transcript of stenographic notes unveils two likely scenarios that could have actually transpired in this case: either the notices sent by respondents were lost by petitioner, or the same were sent to but not received by petitioner without the fault of respondents. In both instances, We cannot invalidate the public auction or nullify the consolidation and transfer of title in favor of respondent Province.

Similar to what happened on its copy of Certificate of Filing of Amended Articles of Incorporation and Certificate of Filing of By-laws, Juan confessed that the notices sent by respondent Province were probably one of those corporate documents lost due to the “several” transfer of petitioner’s office. During his cross-examination, he answered as follows:

³⁵ TSN, July 9, 2001, pp. 12-13. (Emphasis ours.)

Q: Why do you have to secure from the SEC[?] why you do not ask your (*sic*) secretary of the corporation who is the legal custodian of this corporation?

A: The papers could no longer be located after we transferred office several times, sir.

Q: What other papers that you cannot locate?

x x x x

A: There are other titles and documents that could not be located so we requested for certified true copy of these documents, sir.

Q: And these papers may include notices which must have been sent to Valbuenco regarding this property from the province of Bataan?

A: Yes, sir.

Q: And this may (*sic*) among those lost of the notices of assessment or levy?

A: We have not seen those documents, sir.

Q: You have not seen those documents because this (*sic*) was (*sic*) among those lost in your records?

A: Maybe, sir.

Q: The reason why you stated that you have not seen any of the documents coming from the Province of Bataan in your files?

A: Yes, sir.³⁶

The testimony of Atty. Lalaquit also shows that petitioner changed its office address in 1975 without even informing respondent Province:

CROSS EXAM. BY ATTY. BANZON:

x x x x

Q: When you stated that . . . by the way, Mr. Bueno used to hold office at 7th Floor of Bank of Philippine Island (*sic*) Building at Ayala Avenue in Makati?

A: Yes, sir.

Q: That is his usual address?

A: From 1973 up to 1974 sir.

Q: And did you notify the treasurer's office regarding the change of address?

A: I did not sir.

Q: At any rate, that address appears or appeared in all certificates of title involving properties in Bagac which is the subject matter of this action?

A: I am not very sure sir.

³⁶ TSN, July 9, 2001, pp. 10-11. (Emphasis ours.)

Q: And these are evident in the annexes of the complaint, is it not? And Valbuenco Incorporation (*sic*) and I quote, Valbuenco Incorporation organized and existing under the laws of Republic of the Philippines with office at 7th Floor, Bank of Philippine Island (*sic*), Building Ayala Avenue, Makati, Rizal?

A: If that appears in the document sir.

Q: There is also an office at the 4th Floor, ICOPHIL Bldg, 1081 Pedro Gil, Paco, Manila?

A: Yes, sir.

Q: That is for Valbuenco Industrial and Development Corporation?

A: The group of companies of Mr. Bueno holds office in the whole building of ICOPHIL, sir.³⁷

Under Section 73³⁸ of PD 464 –

x x x notices of the sale at public auction may be sent to the delinquent taxpayer, either (i) at the address as shown in the tax rolls or property tax record cards of the municipality or city where the property is located or (ii) at his residence, if known to such treasurer or barrio captain. Plainly, Section 73 gives the treasurer the option of where to send the notice of sale. In giving the treasurer the option, nowhere in the wordings is there an indication of a requirement that notice must actually be received by the intended recipient. Compliance by the treasurer is limited to strictly following the provisions of the statute: he may send it at the address of the delinquent taxpayer as shown in the tax rolls or tax records or to the residence if known by him or the barrio captain.³⁹

In this case, it is reasonable to deduce that respondent Provincial Treasurer actually sent the notices at the address uniformly indicated in TCT No. 47377, 47378, 47379, 47380, 47381, 47382, 47385 and 47386, as well as in the tax declarations, which is 7th Floor, Bank of P.I. Bldg., Ayala Avenue, Makati, Rizal. The fault herein lies with petitioner, not with respondent Provincial Treasurer. It had a number of years to amend its address and provide a more updated and reliable one. By neglecting to do so, it should be aware of the chances it was taking should notices be sent to it. Respondent Provincial Treasurer cannot be faulted for presumably sending the notices to petitioner's address indicated in the land titles and tax declarations of the subject properties.

The principle We enunciated in *Valencia v. Jimenez*,⁴⁰ *Camo v. Riosa Boyco*,⁴¹ and *Requiron v. Sinaban*⁴² that there can be no presumption of

³⁷ TSN, September 10, 2001, pp. 2-3. (Emphasis ours.)

³⁸ *Supra* note 23.

³⁹ *Aquino v. Quezon City*, 529 Phil. 486, 501 (2006).

⁴⁰ 11 Phil. 492, 498-499 (1908).

⁴¹ 29 Phil. 437, 444-445 (1915).

⁴² 447 Phil. 33, 46 (2003).

regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale does not apply in the case at bar. By and large, these cases cited by petitioner involved facts that are way too different from the one found in the instant case. More importantly, in the present case, respondent Province, through its witness, Josephine Espino, unequivocally attested that the procedural requisites mandated by PD 464 were definitely observed. During her presentation, Espino stated that she is a Local Treasury Operation Officer IV of the Provincial Treasurer's Office since March 2000 and that she had previously served as Local Treasury Operations Officer and Local Revenue Collection Officer III of the Provincial Treasurer's Office, being in charge of collecting taxes.⁴³ Under oath, she declared to have personal knowledge of the fact that notice of tax delinquency was sent by the Provincial Treasurer's Office to petitioner. She could not, however, show any documentary proof mainly because the exclusive folder of petitioner's properties are now missing despite exercise of all possible means to locate them in other property files.⁴⁴ Considering the long time that elapsed between the public sale held sometime in 1987 or 1988 and the presentation of her testimony in 2002, it is also understandable that Espino could no longer remember the minute details surrounding the notices, publication, and posting that respondent Provincial Treasurer observed relative to the auction sale of the subject properties.

The Court, therefore, affirms the RTC's opinion that petitioner was not able to establish its cause of action for its failure to submit convincing evidence to establish a case and the CA's position that it must rely on the strength of its evidence and not on the weakness of respondents' claim. Indeed, in *Sapu-an v. Court of Appeals*,⁴⁵ We held:

The general rule in civil cases is that the party having the burden of proof must establish his case by a preponderance of evidence. By "preponderance of evidence" is meant that the evidence as a whole adduced by one side is superior to that of the other.

In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts on which they are testifying, the nature of such facts, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility as far as the same may legitimately appear at the trial. The court may also consider the number of witnesses, although the preponderance is not necessarily with the greatest number.

It is settled that matters of credibility are addressed basically to the trial judge who is in a better position than the appellate court to appreciate

⁴³ TSN, September 27, 2002, pp. 2-3, 6; TSN, October 25, 2002, p. 2.

⁴⁴ *Id.* at 7-8; *Id.* at 5.

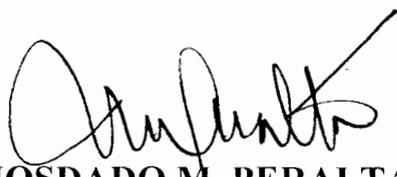
⁴⁵ G.R. No. 91869, October 19, 1992, 214 SCRA 701.

the weight and evidentiary value of the testimonies of witnesses who have personally appeared before him.⁴⁶

What petitioner has accomplished is only to cast doubts by capitalizing on the absence of documentary evidence on the part of respondents. While such approach would succeed if carried out by the accused in criminal cases, plaintiffs in civil cases need to do much more to overturn findings of fact and credibility by the trial court, especially when the same had been affirmed by the CA. It must be stressed that overturning judgments in civil cases should be based on preponderance of evidence, and with the further qualification that, when the scales shall stand upon an equipoise, the court should find for the defendant.⁴⁷ The “equiponderance of evidence” rule states that when the scale shall stand upon an equipoise and there is nothing in the evidence which shall incline it to one side or the other, the court will find for the defendant.⁴⁸ Under this principle, the plaintiff must rely on the strength of his evidence and not on the weakness of the defendant's claim; even if the evidence of the plaintiff may be stronger than that of the defendant, there is no preponderance of evidence on his side if such evidence is insufficient in itself to establish his cause of action.⁴⁹

WHEREFORE, the petition is **DENIED**. The assailed October 24, 2005 Decision and July 18, 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 81191, which sustained the August 19, 2003 Decision of the Regional Trial Court, Branch 1, Balanga City, Bataan dismissing the case are hereby **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



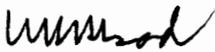
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

⁴⁶ *Sapu-an v. Court of Appeals*, *supra* note 45, at 706.

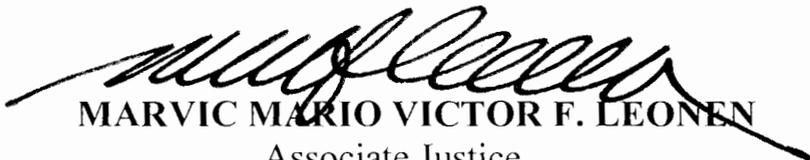
⁴⁷ *Gomez v. Gomez-Samson*, 543 Phil. 436, 464 (2007).

⁴⁸ *Sapu-an v. Court of Appeals*, *supra* note 45, at 705, citing Moran, *Comments on the Rules of Court*, 1980 ed., Vol. 6, p. 134. See also *Spouses Azana v. Lumbo*, 547 Phil. 598, 602 (2007).

⁴⁹ *Id.* at 705-706, citing Moran, *Comments on the Rules of Court*, 1980 ed., Vol. 6, p. 135. See also *Spouses Azana v. Lumbo*, 547 Phil. 598, 602 (2007).


ROBERTO A. ABAD
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

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


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice