

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. L-19545 April 18, 1975

PHILIPPINE SUBURBAN DEVELOPMENT CORPORATION, petitioner,

vs.

THE AUDITOR GENERAL, PEDRO M. GIMENEZ, respondent.

Magno L. Dajao for petitioner.

First Assistant Solicitor General Esmeraldo Umali and Solicitor Sumilang V. Bernardo for respondent.

ANTONIO, J.:

Appeal by certiorari from the decision dated December 11, 1961, of then Auditor General Pedro M. Gimenez, disallowing the request of petitioner for the refund of real estate tax in the amount of P30,460.90 paid to the Provincial Treasurer of Bulacan.

The facts of the case are as follows:

On June 8, 1960, at a meeting with the Cabinet, the President of the Philippines, acting on the reports of the Committee created to survey suitable lots for relocating squatters in Manila and suburbs, and of the Social Welfare Administrator together with the recommendation of the Manager of the Government Service Insurance System, approved in principle the acquisition by the People's Homesite and Housing Corporation of the unoccupied portion of the Sapang Palay Estate in Sta. Maria, Bulacan for relocating the squatters who desire to settle north of Manila, and of another area either in Las Piñas or Parañaque, Rizal, or Bacoor, Cavite for those who desire to settle south of Manila. The project was to be financed through the flotation of bonds under the charter of the PHHC in the amount of P4.5 million, the same to be absorbed by the Government Service Insurance System. The President, through the Executive Secretary, informed the PHHC of such approval by letter bearing the same date (Annex "B").

On June 10, 1960, the Board of Directors of the PHHC passed Resolution No. 700 (Annex "C") authorizing the purchase of the unoccupied portion of the Sapang Palay Estate at P0.45 per square meter "subject to the following conditions precedent:

1. That the confirmation by the OEC and the President of the purchase price of P0.45 per sq. m. shall first be secured, pursuant to OEC Memorandum Circular No. 114, dated May 6, 1957.
2. That the portion of the estate to be acquired shall first be defined and delineated.
3. That the President of the Philippines shall first provide the PHHC with the necessary funds to effect the purchase and development of this property from the proposed P4.5 million bond issue to be absorbed by the GSIS.
4. That the contract of sale shall first be approved by the Auditor General pursuant to Executive Order dated February 3, 1959.
5. The vendor shall agree to the dismissal with prejudice of Civil Case No. Q-3332 C.F.I. Quezon City, entitled "Phil. Suburban Dev. Corp. V. Ortiz, et al."

On July 13, 1960, the President authorized the floating of bonds under Republic Act Nos. 1000 and 1322 in the amount of P7,500,000.00 to be absorbed by the GSIS, in order to finance the acquisition by the PHHC of the entire Sapang Palay Estate at a price not to exceed P0.45 per sq. meter.

On December 29, 1960, after an exchange of communications, Petitioner Philippine Suburban Development Corporation, as owner of the unoccupied portion of the Sapang Palay Estate (specifically two parcels covered by TCT Nos. T-23807 and T-23808), and the People's Homesite and Housing Corporation, entered into a contract embodied in a public instrument entitled "Deed of Absolute Sale" (Annex "F") whereby the former conveyed unto the latter the two parcels of land abovementioned, under the following terms and conditions, among others: *tên.Êîhqwâ£*

1. That for and in consideration of the sum of THREE MILLION THREE HUNDRED EIGHTY-SIX THOUSAND TWO HUNDRED TWENTY THREE (P3,386,223.00) PESOS, Philippine currency, to be paid by the VENDEE to the herein VENDOR in the manner outlined hereinbelow, the VENDOR by these presents does hereby sell, transfer and convey by way of absolute sale unto the VENDEE, its successors, administrators or assigns, the above described two (2) parcels of land, together with all the improvements existing thereon;
2. That the payment of the consideration mentioned in paragraph 1 above shall be made as follows:
 - (a) The vendee is presently negotiating or securing from the GOVERNMENT SERVICE INSURANCE SYSTEM, by virtue of a directive of the President of the Philippines, a loan for the purchase of the above described two (2) parcels of

land in anticipation of the purchase by the said GOVERNMENT SERVICE INSURANCE SYSTEM of the bonds to be floated by the National Government to enable the VENDEE to make this purchase, and from whatever amount may be granted as loan by the GOVERNMENT SERVICE INSURANCE SYSTEM to the VENDEE, ONE MILLION SEVEN HUNDRED TEN THOUSAND (P1,710,000.00) PESOS shall be retained by the said VENDEE for the purpose of paying and clearing the existing lien annotated at the back of the aforesaid Transfer Certificates of Title Nos. T-23807 and T-23808, said payment to be made directly to the MORTGAGEES and the difference shall be paid to the VENDOR, provided that this first payment shall not be less than ONE MILLION SEVEN HUNDRED TEN THOUSAND (P1,710,000.00) PESOS and the VENDOR is hereby constituted as Attorney-in-fact and authorized to receive from, and the GOVERNMENT SERVICE INSURANCE SYSTEM is directed to pay the balance of the loan direct to the herein VENDOR chargeable against VENDEE's loan from the GOVERNMENT SERVICE INSURANCE SYSTEM; provided, however, That should this amount be more than sufficient to cover the said mortgage lien, the VENDEE shall pay the difference to the VENDOR; and provided, further, That the VENDOR shall take charge of the preparation and registration of the documents necessary in clearing the above referred to mortgage lien, with the understanding that the expenses for preparation, notarization, registration, including documentary stamps, and other expenses for the cancellation of said mortgage lien shall be for the account of the VENDOR and shall be advanced by the VENDEE to the VENDOR;

(b) That out of the sum of P1,710,000.00 to be retained by the VENDEE mentioned in the immediately preceding paragraph 2(a) for the purpose of discharging the said mortgage lien, the VENDEE shall deduct and further retain or keep as a trust fund the amount of FORTY THOUSAND (P40,000) PESOS, Philippine Currency, to answer for the remaining Notice of Lis Pendens annotated at the back of Transfer Certificate of Title Nos. T-23807 and T-23808 until such lien shall have been discharged or cancelled, the VENDEE binding itself to deliver forthwith the said amount of P40,000.00 unto the successful party involved in said Notice of Lis Pendens;

(c) The remaining balance of the total consideration in the amount of ONE MILLION SIX HUNDRED SEVENTY-SIX THOUSAND TWO HUNDRED TWENTY-THREE PESOS (P1,676,223.00), Philippine Currency, or whatever amount is not paid by virtue of the first payment mentioned in paragraph (a) above, shall be paid by the VENDEE unto the VENDOR immediately upon the VENDEE's obtaining sufficient funds from proceeds of bonds floated by the VENDEE or the Government for the purchase of the properties subject of this transaction; provided, however, That full and complete payment of the balance mentioned in this particular paragraph 2(c) shall be made or paid by the VENDEE within a period of sixty (60) days from date of delivery of title by the VENDOR in the

name of the VENDEE; and provided, further, That this sixty (60) days period may be extended for another period of sixty (60) days upon written request by the VENDEE at least five (5) days prior to the expiration of the said sixty (60) days period. Should there be instituted any legal action, however, for the collection of any amounts due from the VENDEE in favor of the VENDOR, the VENDEE binds itself to pay unto the VENDOR a sum equivalent to twenty-five (25%) per centum of the total balance due from the, VENDEE in favor of the VENDOR as and by way of attorney's fees, and the costs of suit;

3. That the VENDOR hereby warrants to defend the title and ownership of the VENDEE to the two (2) parcels of land above described from any claim or claims of third parties whomsoever;

(4.) That all expenses for the preparation and notarization of this document shall be for the account of the VENDOR; provided, however, That registration and issuance of certificates of title in the name of the VENDEE shall be for the account of the VENDEE." (Annex "F")

The above document was not registered in the Office of the Register of Deeds until March 14, 1961, due to the fact, petitioner claims, that the PHHC could not at once advance the money needed for registration expenses. In the meantime, the Auditor General, to whom a copy of the contract had been submitted for approval in conformity with Executive Order No. 290, expressed objections thereto and requested a re-examination of the contract, in view of the fact that from 1948 to December 20, 1960, the entire hacienda was assessed at P131,590.00, and reassessed beginning December 21, 1960 in the greatly increased amount of P4,898,110.00. Said objections were embodied in a letter to the President, dated January 9, 1961, but this notwithstanding, the President, through the Executive Secretary, approved the Deed of Absolute Sale on February 1, 1961.

It appears that as early as the first week of June, 1960, prior to the signing of the deed by the parties, the PHHC acquired possession of the property, with the consent of petitioner, to enable the said PHHC to proceed immediately with the construction of roads in the new settlement and to resettle the squatters and flood victims in Manila who were rendered homeless by the floods or ejected from the lots which they were then occupying (Annexes "D" and "D-1").

On April 12, 1961, the Provincial Treasurer of Bulacan requested the PHHC to withhold the amount of P30,099.79 from the purchase price to be paid by it to the Philippine Suburban Development Corporation. Said amount represented the realty tax due on the property involved for the calendar year 1961 (Annex "G").

Petitioner, through the PHHC, paid under protest the abovementioned amount to the Provincial Treasurer of Bulacan and thereafter, on June 13, 1961, by letter, requested then Secretary of Finance Dominador Aytona to order a refund of the amount so paid. Petitioner claimed that it ceased to be the owner of the land in question upon the execution of the Deed of Absolute Sale

on December 29, 1960. Upon recommendation of the Provincial Treasurer of Bulacan, said request was denied by the Secretary of Finance in a letter-decision dated August 22, 1961. Pertinent portions of this decision are quoted hereunder:

.... the records show that the deed of sale executed on December 29, 1960 ... was approved by the President upon favorable recommendation of the Cabinet and the Committee created for the purpose of surveying suitable lots which may be acquired for relocating squatters in Manila on February 1, 1961 only and that said instrument of sale was registered with the Register of Deeds on March 14, 1961.

That Corporation, as vendor, maintains that in view of the execution of the deed of sale on December 29, 1960 it ceased to be the owner of the property involved and that consequently it was under no obligation to pay the real property tax thereon effective January 1, 1961. In support of its stand, that Corporation cites Article 1498 of the New Civil Code of the Philippines which provides that "when the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the thing which is the object of the contract, if from the deed the contrary does not appear or cannot clearly be inferred" and Article 1496 of the same Code which states that "the ownership of the thing sold is acquired by the vendee from the moment it is delivered to him in any of the ways specified in Articles 1497 to 1501, or in any other manner signifying an agreement that the possession is transferred from the vendor to the vendee." On the other hand, the Provincial Treasurer contends that, as under the Land Registration Act (Act No. 496) the Philippine Suburban Development Corporation is still the owner of the property until the deed of sale covering the same has been actually registered, the vendor is still liable to the payment of real property tax for the calendar year 1961.

It is now claimed in this appeal that the Auditor General erred in disallowing the refund of the real estate tax in the amount of P30,460.90 because aside from the presumptive delivery of the property by the execution of the deed of sale on December 29, 1960, the possession of the property was actually delivered to the vendee prior to the sale, and, therefore, by the transmission of ownership to the vendee, petitioner has ceased to be the owner of the property involved, and, consequently, under no obligation to pay the real property tax for the year 1961.

Respondent, however, argues that the presumptive delivery of the property under Article 1498 of the Civil Code does not apply because of the requirement in the contract that the sale shall first be approved by the Auditor General, pursuant to the Executive Order dated February 3, 1959 and later by the President, and that the petitioner should register the deed and secure a new title in the name of the vendee before the government can be compelled to pay the balance of P1,676,223.00 of the purchase price. Respondent further contends that since the property involved is a land registered under the Land Registration Act (Act No. 496), until the

deed of sale has been actually registered, the vendor remains as the owner of the said property, and, therefore, liable for the payment of real property tax.

We find the petition meritorious.

I.

It cannot be denied that the President of the Philippines, on June 8, 1960, at his Cabinet meeting, approved and authorized the purchase by the national government, through the PHHC, of the unoccupied portion of the property of petitioner; that on June 10, 1960, the PHHC, acting pursuant to the aforesaid approval of the President, passed its Resolution No. 700 approving and authorizing the purchase of the unoccupied portion of said property; and that after the PHHC took possession of the aforementioned property on the first week of June, 1960 to use it as a resettlement area for squatters and flood victims from Manila and suburbs, the President of the Philippines at his Cabinet meeting on June 13, 1960, approved and authorized the purchase by the PHHC of the entire property consisting of 752.4940 hectares, instead of only the unoccupied portion thereof as was previously authorized.

Considering the aforementioned approval and authorization by the President of the Philippines of the specific transaction in question, and the fact that the contract here involved — which is for a special purpose to meet a special situation — was entered into precisely to implement the Presidential directive, the prior approval by the Auditor General envisioned by Administrative Order No. 290, dated February 3, 1959, would therefore, not be necessary.

As We held in *Federation of the United NAMARCO Distributors v. National Marketing Corporation*,¹ the approval by the Auditor General contemplated by Administrative Order No. 290 dated February 3, 1959, refers to contracts in general, ordinarily entered into by government offices and government-owned or controlled corporations, and not to a contract for a special purpose, to meet a special situation and entered into in implementation of a Presidential directive to solve and emergency. In other words, where the contract already bears the approval of the President, the action of the Auditor General would no longer be necessary because under the said Administrative Order, the President has, at any rate, the final say.

II

Under the civil law, delivery (tradition) as a mode of transmission of ownership maybe actual (real tradition) or constructive (constructive tradition).² When the sale of real property is made in a public instrument, the execution thereof is equivalent to the delivery of the thing object of the contract, if from the deed the contrary does not appear or cannot clearly be inferred.³

In other words, there is symbolic delivery of the property subject of the sale by the execution of the public instrument, unless from the express terms of the instrument, or by clear inference therefrom, this was not the intention of the parties. Such would be the case, for instance, when a certain date is fixed for the purchaser to take possession of the property subject of the

conveyance, or where, in case of sale by installments, it is stipulated that until the last installment is made, the title to the property should remain with the vendor, or when the vendor reserves the right to use and enjoy the properties until the gathering of the pending crops,⁴ or where the vendor has no control over the thing sold at the moment of the sale, and, therefore, its material delivery could not have been made.⁵

In the case at bar, there is no question that the vendor had actually placed the vendee in possession and control over the thing sold, even before the date of the sale. The condition that petitioner should first register the deed of sale and secure a new title in the name of the vendee before the latter shall pay the balance of the purchase price, did not preclude the transmission of ownership. In the absence of an express stipulation to the contrary, the payment of the purchase price of the good is not a condition, precedent to the transfer of title to the buyer, but title passes by the delivery of the goods.⁶

III .

We fail to see the merit in respondent's insistence that, although possession was transferred to the vendee and the deed of sale was executed in a public instrument on December 29, 1960, the vendor still remains as owner of the property until the deed of sale is actually registered with the Office of the Register of Deeds, because the land sold is registered under the Torrens System. In a long line of cases already decided by this Court, the constant doctrine has been that, as between the parties to a contract of sale, registration is not necessary to make it valid and effective, for actual notice is equivalent to registration.⁷ Indeed, Section 50 of the Land Registration Act provides that, even without the act of registration, a deed purporting to convey or affect registered land shall operate as a contract between the parties. The registration is intended to protect the buyer against claims of third persons arising from subsequent alienations by the vendor, and is certainly not necessary to give effect to the deed of sale, as between the parties to the contract.⁸

The case of *Vargas v. Tancioco*,⁹ cited by respondent, refers to a case involving conflicting rights over registered property and those of innocent transferees who relied on the clean titles of the properties in question. It is, therefore, not relevant to the case at bar.

In the case at bar, no rights of third persons are involved, much less is there any subsequent alienation of the same property. It is undisputed that the property is in the possession of the vendee, even as early as the first week of June, 1960, or six (6) months prior to the execution of the Deed of Absolute Sale on December 29, 1960. Since the delivery of possession, coupled with the execution of the Deed of Absolute Sale, had consummated the sale and transferred the title to the purchaser,¹⁰ We, therefore, hold that the payment of the real estate tax after such transfer is the responsibility of the purchaser. However, in the case at bar, the purchaser PHHC is a government entity not subject to real property tax.¹¹

WHEREFORE, the appealed decision is hereby reversed, and the real property tax paid under protest to the Provincial Treasurer of Bulacan by petitioner Philippine Suburban Development

Corporation, in the amount of P30,460,90, is hereby ordered refunded. Without any pronouncement as to costs.

Makalintal, C.J., Fernando, Barredo and Aquino, JJ., concur.

Footnotes

1 4 SCRA 867, 885.

2 Tolentino, V Civil Code, pp. 41, 42.

3 Articles 1496, 1498, Civil Code of the Philippines.

4 [10 Manresa 156 (1950 Ed.); Aviles et al. v. Arcega, et al., 44 Phil., 924] .

5 Addison v. Felix, 38 Phil., 404; Masallo v. Cesar, 39 Phil., 134.

6 Ocejo Perez & Co. v. International Bank, 37 Phil., 631.

7 Obras Pias v. Deverra Ignacio, 17 Phil., 45; Gustilo v. Maravilla, 48 Phil., 442; Quimson v. Suarez, 45 Phil., 901; Winkleman v. Veluz, 43 Phil., 609; Galasinao v. Austria, 97 Phil., 82.

8 Galanza v. Nuesa, 95 Phil., 713; Sapto, et al. v. Fabiana, 103 Phil 683, 685.

9 67 Phil., 308.

10 Sapto, et al., v. Fabiana, *supra*..

11 Republic v. Aricheta, 2 SCRA 469. See also Sec. 7 of Rep. Act No. 1322 which states that "All the projects of the People's Homesite and Housing Corporation financed under this act shall be exempt from national and local taxes and fees of any kind."