
Salva vs. Magpile

SECOND DIVISION

[G.R. No. 220440. November 8, 2017]

KATHERINE ROSE SALVA, *petitioner*, vs. **ILDEFONSO P. MAGPILE**, *respondent*.

SYLLABUS

- 1. REMEDIAL LAW; JURISDICTION; THE COURT OF APPEALS CORRECTLY ASSERTED ITS JURISDICTION AS PETITIONER DID NOT ASSAIL THE LEGALITY AND CORRECTNESS OF THE REAL PROPERTY TAX ASSESSMENT AND COLLECTION BUT THE ALLEGED DENIAL OF DUE PROCESS IN THE LEVYING OF HIS PROPERTY.**— [T]he CA correctly asserted its jurisdiction in this case. Here, the dispute arose from the alleged non-compliance of the respondents with the pertinent provisions of the LGC on tax delinquency sale. A plain reading of Magpile’s petition before the RTC would show that he did not assail the legality or validity and reasonableness or correctness of the real property tax assessment and collection. In fact, he categorically and repeatedly admits in his pleadings that he failed to pay the real property tax from 1998 up to 2006. As the CA ruled, what he is questioning is the alleged denial of due process in the levying of his property. Basic is the rule that the allegations in the complaint and the character of the relief sought determine the nature of an action. In order for the trial court to resolve Magpile’s petition, the issues regarding the legality/validity or reasonableness/correctness of the real property tax assessment and collection need not be dealt with. At bar, the issue of the validity and legality of the tax sale is not essentially related to the issue of the demandability of the real property tax.
- 2. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; TAX DELINQUENCY SALE; THE REQUIREMENTS FOR A VALID TAX DELINQUENT SALE ARE MANDATORY AND MUST BE STRICTLY FOLLOWED.**— As an exception to the rule that

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administrative proceedings are presumed to be regular, there can be no presumption of the regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale. x x x Section 254 mandates that the notice of delinquency in the payment of the real property be: (1) posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each *barangay* of the local government unit concerned, and (2) published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality. In *Talusan v. Tayag*, the Court added that the notice of delinquency should be sent to the registered owner of the property subject of a possible tax sale. x x x Under Section 258, the warrant of levy must be mailed to or served upon the delinquent owner of the real property or person having legal interest therein, or in case he is out of the country or cannot be located, to the administrator or occupant of the property. At the same time, written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the Register of Deeds of the province, city or a municipality where the property is located, who shall annotate the levy on the tax declaration and certificate of title of the property, respectively. The levying officer shall submit a report on the levy to the *sanggunian* concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein. Lastly, Section 260 requires that within thirty (30) days after service of the warrant of levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the tax delinquency and expenses of sale. The advertisement shall be effected by: (1) posting a notice at the main entrance of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the *barangay* where the real property is located, and (2) publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. x x x The public auction of land to satisfy delinquency in the payment of real estate tax derogates or impinges on property rights and due process. Thus, the steps prescribed by law are mandatory and must be strictly followed; if not, the sale of the real property is invalid and does not make its purchaser the new owner. Strict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible

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suspicion of collusion between the buyer and the public officials called upon to enforce the laws.

APPEARANCES OF COUNSEL

Glenn G. Hao for petitioner.
Gailord Fidel V. Gonzales for respondent.

D E C I S I O N

PERALTA, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court (*Rules*) seeks to reverse and set aside the December 5, 2014 Decision¹ and September 4, 2015 Resolution² of the Court of Appeals (*CA*) in CA-G.R. CV No. 99819. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the instant appeal is **GRANTED**. The Decision of the Regional Trial Court in Civil Case No. 08-184 dated June 17, 2011 is hereby **REVERSED** and **SET ASIDE**. The auction sale of the parcel of land covered by Transfer Certificate of Title No. 215195 conducted on May 24, 2006 is hereby declared **NULL** and **VOID**. The Certificate of Sale issued by virtue of the said sale in favor of herein respondent-appellee Katherine Rose Salva is hereby ordered **CANCELLED**.

SO ORDERED.³

The facts are uncomplicated.

Sometime in 1968, respondent Ildefonso P. Magpile (*Magpile*) acquired a 262-square-meter parcel of land situated in Makati City, Metro Manila. His title thereto, Transfer Certificate of Title (*TCT*) No. 215195,⁴ was registered on February 19, 1968 and bears “**2118**

¹ Penned by Associate Justice Romeo F. Barza, with Associate Justices Hakim S. Abdulwahid and Ramon A. Cruz, concurring; *rollo*, pp. 18-34.

² *Rollo*, pp. 35-36.

³ *Id.* at 34. (Emphasis in the original)

⁴ *Id.* at 51.

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Apolinario, Makati, Rizal” as his postal address.⁵ He transferred to and resided in the subject property. On June 30, 1980, he filed with the Office of the Municipal Assessor of Makati a Sworn Statement of the True Current and Fair Market Value⁶ of the land covered by TCT No. 215195 as well as the improvements made thereon. In the Sworn Statement, he wrote “***1772 Evangelista, Bangkal, Makati, M.M.***” as his postal address.

Magpile failed to pay the real property taxes due on the subject property from 1998 up to 2006. As a result, the City Treasurer of Makati sent him billing statements,⁷ notice of realty tax delinquency,⁸ and warrants of levy⁹ at the address “***2118 Apolinario St., Bangkal, Makati City.***” On May 24, 2006, the subject property was sold at a public auction for P200,000.00 to petitioner Katherine Rose Salva (*Salva*) as the highest bidder.¹⁰

Almost two years after, on March 5, 2008, Magpile, through his daughter, Ma. Socorro Magpile-Del Rosario as attorney-in-fact,¹¹ filed a petition¹² to declare as null and void the auction sale and to cancel the certificate of sale issued in favor of Salva. The case was raffled to Makati RTC, Branch 150 and docketed as Civil Case No. 08-184.

In his petition, Magpile claimed that he did not receive any of the notices sent by the City Treasurer, who failed to comply with Section 258, Chapter VI, Title II, Book II of Republic Act. (*R.A.*) No. 7160, or the *Local Government Code of 1991 (LGC)*. He asserted that his former postal address is no longer

⁵ *Id.*

⁶ *Id.* at 52.

⁷ *Id.* at 53-56.

⁸ *Id.* at 57.

⁹ *Id.* at 58-59.

¹⁰ *Id.* at 61.

¹¹ *Id.* at 49.

¹² *Id.* at 37-47.

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existing since 1996. As proof, he attached the Certification dated February 28, 2008 issued by the Barangay Captain of Pio del Pilar, Makati, attesting that “*the address or numbers of residences and establishments located in Apolinario Street this Barangay have been changed since 1996*” and that “*the former postal address of Mr. Ildefonso P. Magpile of 2118 Apolinario Street indicated last 1968 [has] been replaced last 1996 by the current numbers or address 1510 A & B Apolinario Street.*”¹³

Despite impleading the Officer-in-Charge of the Office of the City Treasurer of Makati as public respondent, only Salva filed an Answer.¹⁴ She alleged, among others, that public respondent enjoys the presumption of regularity, and assuming that Magpile’s allegations are true, he is estopped for his failure to call the attention of public respondent about the continued use of 2118 Apolinario St., Bangkal, Makati City as his postal address. It was noted that years had elapsed from the alleged submission of the Sworn Statement until the notice of realty tax delinquency was sent.

At the pre-trial, the parties stipulated on the following facts:

1. That on June 30, 1980, petitioner filed with the Office of the Municipal Assessor of Makati a Sworn Statement of the current and fair market value of the parcel of land covered by TCT No. 215195 as well as the improvements thereon, with an area of 262 square meters described as Lot No. 10, Block 7 of Psd 1754 located at No. 1772 Evangelista, Bangkal, Makati under Tax Declaration No. 001-00780. That a one and one-half residential house is constructed on the lot; x x x [and]
2. That in the Sworn Statement, petitioner stated therein that the postal address is at 1772 Evangelista, Bangkal, Makati, Metro Manila[.] x x x¹⁵

Salva admitted the existence and authenticity of the documents attached to the petition, to wit: TCT No. 215195, billing

¹³ *Id.* at 62.

¹⁴ *Id.* at 63-68.

¹⁵ *Id.* at 69.

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statements dated February 3, 2006 and March 14, 2006, notice of realty tax delinquency dated February 24, 2006, warrants of levy dated April 7, 2006, notice of public auction, and certification of the Barangay Captain of Pio del Pilar.¹⁶

The issues formulated for resolution were:

1. whether or not the Auction Sale conducted on May [24], 2006 is valid;
2. whether or not the City Treasurer complied with the provision of the Local Government Code, specifically Section 258, Chapter 6 of RA No. 7160; and
3. whether or not the Notice of Levy was deemed to have been received by the petitioner.¹⁷

After the termination of pre-trial, the parties agreed to submit the case for decision based on the pleadings, thereby leaving the trial court to resolve the issues after submission of memorandum.¹⁸

In his Memorandum,¹⁹ Magpile insisted that he did not receive any of the notices sent by the City Treasurer of Makati, who sent all notices to his former postal address that no longer exists since 1996 per Certification of the Barangay Captain of Pio del Pilar. According to him, the City Treasurer could not feign ignorance of such fact since it would be reflected in the return of the notices. Also, the Sworn Statement he submitted to the Office of the Municipal Assessor of Makati in 1980 already declared that he had occupied and resided at the subject property as early as 1968 and that his postal address is 1772 Evangelista, Bangkal, Makati, Metro Manila. Moreover, even granting that a notice of delinquency was posted and published, the auction sale is still null and void because he did not receive the warrant of levy, which is a clear violation of Section 258 of the LGC.

¹⁶ *Id.* at 70.

¹⁷ *Id.* at 71.

¹⁸ *Id.* at 104.

¹⁹ *Id.* at 85-98.

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No effort was done nor was there any intention on the part of the City Treasurer to serve such warrant to the occupant of the property. These effectively disputed the presumption of regularity. Finally, Magpile argued that while he deposited the amount required under Section 267 of R.A. No. 7160, inclusive of the two percent (2%) interest from the date of the sale up to the time of the institution of the action, he should not be liable for the 2% interest because he was also a victim of the negligence of fault of the City Treasurer.

On the other hand, Salva countered in her Memorandum²⁰ that Magpile should have taken the witness stand to prove his allegations that he did not receive the notices or warrant and that there was irregularity in the performance of official function on the part of the City Treasurer. She surmised that he was aware that his testimony could not withstand the crucible test of cross-examination. The presumption that evidence willfully suppressed would be adverse if produced, therefore, applies in this case. Further, Salva contended that not a single document is on record wherein Magpile himself denied receiving the notices or warrant. The petition was verified by his daughter, who has no personal knowledge of the alleged non-receipt of notices by her father and had not testified in open court. Documentary evidence, which are, at best, merely corroborative, have no leg to stand on in the absence of Magpile's oral testimony.

For Salva, Magpile's place of residence has no bearing to the case. She asserted that the notice of delinquency must be posted and published but need not be mailed. Likewise, although the law requires that a warrant of levy be mailed, if not personally served, it is silent on where the mail should be addressed. Thus, the warrant of levy need not be mailed to the residence of the delinquent taxpayer; it may be mailed to any of the postal addresses given. Salva argued that Magpile should be deemed as having maintained two postal addresses considering that she never admitted his alleged transfer of residence.²¹ He should

²⁰ *Id.* at 72-84.

²¹ In her Memorandum, Salva alleged:

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have established that 2118 Apolinario Street was no longer his postal address and that he advised the City Treasurer to direct all communications to his new postal address. A different address indicated in the Sworn Statement does not mean that it replaces the one previously given by Magpile and it does not instruct that all notices and communications should, henceforth, be sent to the newly given address. According to Salva, the only legal conclusion that could be drawn therefrom is that he maintains two postal addresses, which is not prohibited by law, and that the mails intended for him could be directed to either one of them.

As to the Certification issued by the Barangay Captain of Pio del Pilar, Salva pointed out that it is immaterial to the case and has no probative value because both parties agreed that 2118 Apolinario Street is in Barangay Bangkal, but Magpile presented a Certification issued by Barangay Pio del Pilar.

On June 17, 2011, the trial court denied Magpile's petition, opining that the notices sent to him through registered mail by the City Treasurer adequately protected his rights as the registered owner of the subject property. It held that: (1) under Section 254 of the LGC, it is sufficient that the notice of delinquency was sent *via* registered mail by the City Treasurer; and (2) Section 258 of the LGC gives the City Treasurer the option to send the warrant of levy and does not require that it must be actually received by the delinquent taxpayer. It further ruled:

The court would readily declare non-compliance with the law had the notices and the Warrant of Levy been sent to an address other

"Nonetheless, petitioner's transfer of residence was never admitted by private respondent. In fact, when petitioner proposed during the pre-trial to stipulate that it was to his **former** postal address at 2118 Apolinario St., Bangkal, Makati City that the notices and warrant were sent to, private respondent manifested willingness to the proposal provided the word "former" preceding each of the phrases "postal address" be removed. Petitioner did not agree to private respondent's condition. Consequently, whether or not said postal address is a former one remains to be a question of fact that should have been proven, but was not proven, by competent and sufficient evidence." (*Id.* at 80).

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than the one indicated in the TCT and in the Makati tax records and if such address is not the residence known to the treasurer or if sent to a person not the registered owner of the property. The fact that petitioner was not able to read the Notices and the Warrant of Levy is of no consequence. Fault may be attributed to him for his failure to amend his address and provide the City Treasurer of a more complete and reliable one. The allegation of petitioner that he did not receive the notice of delinquency and Warrant of Levy is merely an allegation. Without the petitioner presenting competent evidence to prove non-receipt of the notices, such allegation would remain an allegation. Records further show that petitioner did not testify in court. He merely relied on the documents to prove his allegations. Moreover, petitioner failed to present competent evidence that he has already established his new residence at 1772 Evangelista St., Bangkal, Makati. The address indicated by petitioner in the Sworn Statement filed with the Assessor's Office does not automatically prove that he is no longer a resident of 2118 Apolinario St., Bangkal, Makati City. Petitioner should have presented competent evidence which imports not only his intention to reside at 1772 Evangelista St., Bangkal, Makati but also that he is personally present in that place coupled with conduct indicative of such intention.

In contrast, the Treasurer's Office cannot be faulted for sending the notices and Warrant of Levy to the address indicated in petitioner's Transfer Certificate of Title and on his tax records. As discussed earlier, Section 258 instructs the Treasurer where to send the Warrant of Levy.

The Certification issued by the Barangay Captain of Barangay Pio del Pilar to the effect that the address and number of petitioner's former postal address at 2118 Apolinario St., Bangkal, Makati have been replaced in 1996 as 1510 A & B Apolinario St. has no probative value since the property is located in Barangay Bangkal and not Barangay Pio del Pilar. It would have been more believable had the Barangay Captain of Barangay Bangkal issued the said Certification.²²

Magpile filed a motion for reconsideration, but it was denied;²³ hence, he elevated the case to the CA. He argued that there was non-compliance with Section 258 of the LGC on the grounds

²² *Rollo*, pp. 107-108.

²³ *Id.* at 109-116, 128.

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that: (1) the notices and warrants of levy were sent to an address that is wrong, non-existent, and neither provided by the taxpayer nor indicated in his tax records; and (2) the levying officer failed to submit a report on the levy to the *sanggunian* concerned within ten (10) days from receipt of the warrant by the owner of the property or person having legal interest therein. On the other hand, Salva maintained her previous assertions and, in addition, averred that the Court of Tax Appeals (*CTA*) has jurisdiction over the subject matter of the appeal pursuant to Section 7 (a) (3) of R.A. 9282.

In dismissing the challenge on its jurisdiction, the *CA* said:

Civil Case No. 08-184 cannot be considered as a local tax case considering that it does not involve the collection of taxes but one which involves merely the annulment of an auction sale conducted for non-payment of the same. It must be remembered that nowhere in the said case did Magpile ever questioned the validity of the real property tax assessed on his property. Neither does he also deny his liability for the payment of the said taxes nor the proper amount thereof which was assessed against him. What was merely assailed by Magpile is the alleged denial of due process on his part in the levying of his property since the notices and warrant of levy were sent to an address which he claims he does not reside in.²⁴

The appellate court agreed with the *RTC* that the Certification of the Barangay Captain of Pio del Pilar has no probative value as it has been conclusively proven by Magpile's repeated admission in his pleadings that his former postal address, "2118 Apolinario Street," is in Barangay Bangkal, Makati, and that it is beyond the authority of the Barangay Captain to make any declaration regarding the location of the said address as the same is not within his territorial jurisdiction. Nevertheless, it was ruled that the City Treasurer erred in sending the notices to Magpile's old address despite being informed of the change of postal address to "1772 Evangelista, Bangkal, Makati" when he filed the Sworn Statement. For the *CA*, Magpile's act of providing a different address had the effect of notifying the

²⁴ *Id.* at 24.

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City Treasurer of changing his postal address in the tax records of Makati. An express mention that he had abandoned the address stated in TCT No. 215195 and that all notices and communications should be directed to another address given is not needed. The Sworn Statement was considered as part of the tax record of the taxpayer and any change in the taxpayer's circumstances relative to the taxation of the property is reflected in the said document. It was opined:

x x x At the risk of being repetitive, We reiterate that it is just illogical to require the taxpayer to amend the address appearing in his certificates of title covering his real properties every time there will be a change in his postal address just to ensure that all notices that will be sent by the local government in relation to the taxation of the said real properties will be received by him. Since the documents being filed by taxpayer in relation to the taxation of his real properties form part of his tax records with the City/Municipality, the more logical approach should be that all notices to the taxpayer by the City/Municipality can in turn be sent at the address provided by the taxpayer in the said documents since the same form part of his tax records with the City/Municipality.²⁵

Citing *Talusan v. Tayag*,²⁶ the CA held that cases involving an auction sale of land for the collection of delinquent taxes are *in personam*; thus, there must be actual notice sent to the delinquent taxpayer in order for the auction sale to be valid. Since there was no proper service to Magpile of the notice of delinquency and the warrant of levy, the City of Makati did not comply with Sections 254 and 258 of the LGC.

The petition lacks merit.

First, on procedural matters. Jurisdiction is conferred by law.²⁷ R.A. No. 9282,²⁸ which was passed into law on March 30, 2004

²⁵ *Id.* at 33.

²⁶ 408 Phil. 373 (2001).

²⁷ *Smart Communications, Inc. v. Municipality of Malvar, Batangas*, 727 Phil. 430, 438 (2014).

²⁸ *An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction*

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and took effect on April 23, 2004,²⁹ amended Section 7 of R.A. No. 1125. It provides:

SEC. 7. Section 7 of the same Act is hereby amended to read as follows:

“SEC. 7. *Jurisdiction.* – The CTA shall exercise:

“(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x x x x x x x

“(3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[.]

The local tax cases referred to in Section 7(a) (3) above-quoted include those involving real property taxes.³⁰ Real property taxation is governed by Book II of the Local Government Code on “Local Taxation and Fiscal Matters” and real property taxes are collected by the Local Treasurer, not by the Bureau of Internal Revenue in charge of collecting national internal revenue taxes, fees, and charges.³¹ In *National Power Corp. v. Municipal Government of Navotas, et al.*,³² the Court held:

and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.

²⁹ *National Power Corp. v. Provincial Government of Bataan*, G.R. No. 180654 (Special 3rd Division Resolution), March 6, 2017; *The City of Manila, et al. v. Judge Grecia-Cuerdo, et al.*, 726 Phil. 9, 19 (2014); and *City of Iriga v. Camarines Sur III Electric Cooperative, Inc. (CASURECO III)*, 694 Phil. 378, 386 (2012).

³⁰ *City of Lapu-Lapu v. Phil. Economic Zone Authority*, 748 Phil. 473, 529 (2014) and *National Power Corp. v. Municipal Government of Navotas, et al.*, 747 Phil. 744, 753 (2014). In the earlier case of *Habawel, et al. v. Court of Tax Appeals, First Div.* (672 Phil. 582 [2011]), which is a case that assailed the CTA finding of direct contempt, the Court agreed with the CTA that a real property tax, being an *ad valorem* tax, could not be treated as a local tax.

³¹ *City of Lapu-Lapu v. Phil. Economic Zone Authority, supra.*

³² *Supra* note 30.

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Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (*LGC*) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.

We, therefore, disagree with the conclusion of the CTA *En Banc* that real property taxes have always been treated by our laws separately from local taxes. The fact that a separate chapter is devoted to the treatment of real property taxes, and a distinct appeal procedure is provided therefor does not justify an inference that Section 7(a)(3) of R.A. 9282 pertains only to local taxes other than real property taxes. Rather, the term “local taxes” in the aforementioned provision should be considered in its general and comprehensive sense, which embraces real property tax assessments, in line with the precept *Generalia verba sunt generaliter intelligencia* – what is generally spoken shall be generally understood. Between the restricted sense and the general meaning of a word, the general must prevail unless it was clearly intended that the restricted sense was to be used. In the words of the Court in *Marcos v. Chief of Staff*:

Where words are used which have both, a restricted and a general meaning, the general must prevail over the restricted unless the nature of the subject matter of the context clearly indicates that the limited sense is intended.

Here, the context in which the word “local taxes” is employed does not clearly indicate that the limited or restricted view was intended by the legislature. In addition, the specification of real property tax assessment under Paragraph (a)(5) of Section 7 of R.A. 9282, in relation to the decisions of the CBAA, is only proper given that the CBAA has no jurisdiction, either original or appellate, over cases involving local taxes other than real property taxes.

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Based on the foregoing, the general meaning of “local taxes” should be adopted in relation to Paragraph (a) (3) of Section 7 of R.A. 9282 which necessarily includes real property taxes.³³

The above notwithstanding, the CA correctly asserted its jurisdiction in this case. Here, the dispute arose from the alleged non-compliance of the respondents with the pertinent provisions of the LGC on tax delinquency sale. A plain reading of Magpile’s petition before the RTC would show that he did not assail the legality or validity and reasonableness or correctness of the real property tax assessment and collection. In fact, he categorically and repeatedly admits in his pleadings that he failed to pay the real property tax from 1998 up to 2006. As the CA ruled, what he is questioning is the alleged denial of due process in the levying of his property. Basic is the rule that the allegations in the complaint and the character of the relief sought determine the nature of an action.³⁴ In order for the trial court to resolve Magpile’s petition, the issues regarding the legality/validity or reasonableness/correctness of the real property tax assessment and collection need not be dealt with. At bar, the issue of the validity and legality of the tax sale is not essentially related to the issue of the demandability of the real property tax. Therefore, the non-dismissal of Magpile’s appeal by the CA was in order.

Now, on the substantive matters.

As an exception to the rule that administrative proceedings are presumed to be regular, there can be no presumption of the regularity of any administrative action which results in depriving a taxpayer of his property through a tax sale.³⁵ The fairly

³³ *National Power Corp. v. Municipal Government of Navotas, et al.*, *supra* note 30, at 753-754. In the earlier case of *Habawel, et al. v. Court of Tax Appeals, First Div. supra* note 30, which is a case that assailed a CTA finding of direct contempt, the Court agreed with the CTA that a real property tax, being an *ad valorem* tax, could not be treated as a local tax.

³⁴ *National Power Corp. v. Provincial Government of Bataan*, G.R. No. 180654 (Special 3rd Division Resolution), March 6, 2017 and *National Power Corp. v. Municipal Government of Navotas, et al.*, *supra* note 30, at 757.

³⁵ *Spouses Sarmiento v. Court of Appeals*, 507 Phil.101, 123 (2005).

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recent case of *Corporate Strategies Development Corp., et al. v. Agojo*³⁶ discussed this at length, thus:

In *Spouses Sarmiento v. CA*, this Court reiterated the rule that there could be no presumption of the regularity of any administrative action which resulted in depriving a taxpayer of his property through a tax sale. This is an exception to the rule that administrative proceedings are presumed to be regular. This has been the rule since the 1908 case of *Valencia v. Jimenez and Fuster* where this Court held:

The American law does not create a presumption of the regularity of any administrative action which results in depriving a citizen or taxpayer of his property, but, on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule is that the purchaser of a tax title is bound to take upon himself the burden of showing the regularity of all proceedings leading up to the sale. The difficulty of supplying such proof has frequently lead to efforts on the part of legislatures to avoid it by providing by statute that a tax deed shall be deemed either conclusive or presumptive proof of such regularity.

Those statutes attributing to it a conclusive effect have been held invalid as operating to deprive the owner of his property without due process of law. But those creating a presumption only have been sustained as affecting a rule of evidence, changing nothing but the burden of proof. (*Turpin v. Lemon*, 187 U.S., 51.)

The tax law applicable to Manila does not attempt to give any special probative effect to the deed of the assessor and collector, and therefore leaves the purchaser to establish the regularity of all vital steps in the assessment and sale. (Emphasis supplied)

In 1915, the Court reiterated this doctrine in *Camo v. Boyco*. It was written therein that no presumption of the regularity existed in any administrative action which resulted in depriving a citizen or taxpayer of his property. It further stated that on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule was that the **purchaser of a tax title was bound to take upon himself the burden of showing the regularity of all proceedings leading up to the sale.**

³⁶ 747 Phil. 607 (2014).

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And in the 2003 case of *Requiron v. Sinaban*, this Court likewise pronounced that it was incumbent upon the buyer at an auction sale to prove the regularity of all proceedings leading to the sale for the buyer could not rely on the presumption of regularity accorded to ordinary administrative proceedings.

The above jurisprudential tenor clearly demonstrates that the burden to prove compliance with the validity of the proceedings leading up to the tax delinquency sale is incumbent upon the buyer or the winning bidder, which, in this case, is the respondent. This is premised on the rule that a sale of land for tax delinquency is in derogation of property and due process rights of the registered owner. In order to be valid, the steps required by law must be strictly followed. The burden to show that such steps were taken lies on the person claiming its validity, for the Court cannot allow mere presumption of regularity to take precedence over the right of a property owner to due process accorded no less than by the Constitution.³⁷

In determining whether Salva has fulfilled her burden of proving compliance with the requirements for a valid tax delinquency sale reference should be made on Sections 254, 258 and 260 of the LGC.

Section 254 mandates that the notice of delinquency in the payment of the real property be: (1) posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each *barangay* of the local government unit concerned, and (2) published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality. In *Talusan v. Tayag*,³⁸ the Court added that

³⁷ *Corporate Strategies Development Corp., et al. v. Agojo, supra*, at 618-620. (Citations omitted). See also *Spouses Sarmiento v. Court of Appeals, supra* note 35, at 123-124.

³⁸ *Supra* note 26. In this case, the Court interpreted Section 65 of Presidential Decree No. 464 or the Real Property Tax Code. Said law was repealed by the LGC, but Section 254 is substantially the same as the old provision.

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the notice of delinquency should be sent to the registered owner of the property subject of a possible tax sale. We ratiocinated:

In this regard, we note that unlike land registration proceedings which are *in rem*, cases involving an auction sale of land for the collection of delinquent taxes are *in personam*. Thus, notice by publication, though sufficient in proceedings *in rem*, does not as a rule satisfy the requirement of proceedings *in personam*. As such, mere publication of the notice of delinquency would not suffice, considering that the procedure in tax sales is *in personam*. It was, therefore, still incumbent upon the city treasurer to send the notice of tax delinquency directly to the taxpayer in order to protect the interests of the latter.³⁹

Under Section 258, the warrant of levy must be mailed to or served upon the delinquent owner of the real property or person having legal interest therein, or in case he is out of the country or cannot be located, to the administrator or occupant of the property. At the same time, written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the Register of Deeds of the province, city or a municipality where the property is located, who shall annotate the levy on the tax declaration and certificate of title of the property, respectively. The levying officer shall submit a report on the levy to the *sanggunian* concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein.

Lastly, Section 260 requires that within thirty (30) days after service of the warrant of levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the tax delinquency and expenses of sale. The advertisement shall be effected by: (1) posting a notice at the main entrance

³⁹ *Talusan v. Tayag*, *supra* note 26, at 388. See also *Aquino v. Quezon City*, 529 Phil. 486, 499 (2006).

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of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the *barangay* where the real property is located, and (2) publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located.

In this case, the notice of tax delinquency was not proven to have been posted and published in accordance with the requirements of the LGC. Specifically, Salva failed to support her claim that the City Treasurer, her deputy or any authorized officer actually caused the posting of a notice of delinquency in the Makati City Hall and in a publicly accessible and conspicuous place in *Barangay* Bangkal where the property is purported to be located. Likewise, she failed to substantiate the fact that the notice was published. The Affidavit of Publication of the newspaper's publisher as well as the issues of the newspaper where the notice was published were not presented as proof.

The notice of delinquency, which was allegedly sent *via* registered mail, was improperly addressed. We agree with Magpile's contention that the billing statements, notice of realty tax delinquency, and warrants of levy were all sent by the City Treasurer to "**2118 Apolinario St., Bangkal, Makati City,**" which is an address other than the one indicated in his tax records. Notably, TCT No. 215195 showed Magpile's address as "**2118 Apolinario, Makati, Rizal,**" while the Sworn Statement stated his address as "**1772 Evangelista, Bangkal, Makati, M.M.**" In the absence of a registry return card or an affidavit of service, it cannot be definitely ascertained that the documents were in fact received by Magpile or any of his authorized representative. Adding to the doubt is the undisputed allegation of Magpile that, per Certification issued by the Barangay Captain of Pio del Pilar, Makati, "2118 Apolinario Street" has been replaced by "1510 A & B Apolinario Street" since 1996. If indeed true, there is really no way that the mail matters would reach the addressee.

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Further, Salva did not adduce evidence to show that Magpile received the warrant of levy. That the delinquent taxpayer must be actually notified of such warrant is implied from Section 258, which explicitly directs the levying officer to “submit a report on the levy to the *sanggunian* concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein.” Contrary to the opinion of the RTC, “[it] is essential that there be an actual notice to the delinquent taxpayer, otherwise, the sale is null and void although preceded by proper advertisement or publication. This proceeds from the principle of administrative proceedings for the sale of private lands for non-payment of taxes being *in personam*.”⁴⁰

Moreover, Salva did not care to prove that notice of the levy with the attached warrant was mailed to or served upon the Assessor and the Register of Deeds of Makati and that the auction sale was advertised through posting and publication, all of which she could have easily verified had she inquired to and coordinated with the Office of the City Treasurer of Makati.

Salva should have provided documentary proof to establish that she derived her right from a proceeding that did not violate Magpile’s substantial right to due process. However, she chose to rely on the presumption of regularity, which is not applicable. Undeniably, there is insufficiency of evidence to prove faithful compliance with all the essential and indispensable requirements of the LGC for a valid tax delinquency sale.

The public auction of land to satisfy delinquency in the payment of real estate tax derogates or impinges on property rights and due process.⁴¹ Thus, the steps prescribed by law

⁴⁰ *Corporate Strategies Development Corp., et al. v. Agojo*, *supra* note 37, at 621, citing *Spouses Tan v. Bantequi*, 510 Phil. 434, 446 (2005). See also *Spouses Sarmiento v. Court of Appeals*, *supra* note 35, at 121.

⁴¹ *Spouses Tan v. Bantequi*, *supra*, at 439 and 446.

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are mandatory and must be strictly followed; if not, the sale of the real property is invalid and does not make its purchaser the new owner.⁴² Strict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible suspicion of collusion between the buyer and the public officials called upon to enforce the laws.⁴³

WHEREFORE, the petition for review on *certiorari* is **DENIED**. The December 5, 2014 Decision and September 4, 2015 Resolution of the Court of Appeals in CA-G.R. CV No. 99819, which reversed and set aside the June 17, 2011 Decision of the Regional Trial Court, Branch 150, Makati City, are **AFFIRMED**. Pursuant to Section 267 of R.A. 7160, considering the invalidity of the sale at public auction of the real property covered by TCT No. 215195, the entire amount deposited by respondent Ildefonso P. Magpile shall be paid to petitioner Katherine Rose Salva.

SO ORDERED.

Carpio (Chairperson), Caguioa, and Reyes, Jr., JJ., concur.
Perlas-Bernabe, J., on official leave.

⁴² *Id.* and *De Knecht v. CA*, 352 Phil. 833, 847 (1998).

⁴³ *Corporate Strategies Development Corp., et al. v. Agojo*, *supra* note 37, at 624, citing *Spouses Sarmiento v. Court of Appeals*, *supra* note 35, at 121. See also *Gamilla v. Burgundy Realty Corporation*, 761 Phil. 549, 559 (2015) and *Tagaytay-Taal Tourist Dev't Corp. v. CA*, 339 Phil. 377, 390 (1997).