

FIRST DIVISION

[G.R. No. 193156, January 18, 2017]

**IVQ LANDHOLDINGS, INC., PETITIONER, VS. REUBEN BARBOSA,
RESPONDENT.**

R E S O L U T I O N

LEONARDO-DE CASTRO, J.:

In this petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court, petitioner IVQ Landholdings, Inc. (IVQ) assails the Decision^[2] dated December 9, 2009 and the Resolution^[3] dated July 30, 2010 of the Court of Appeals in CA-G.R. CV No. 90609. The decision of the appellate court affirmed the Decision^[4] dated June 15, 2007 of the Regional Trial Court (RTC) of Quezon City, Branch 222 in Civil Case No. Q04-52842, which adjudicated in favor of herein respondent Reuben Barbosa (Barbosa) the ownership of the property subject of this case and ordered the cancellation of IVQ's certificate of title thereto. The resolution of the appellate court denied the Motion for Reconsideration^[5] and the Supplemental Motion for Reconsideration^[6] filed by IVQ regarding the Court of Appeals' decision.

The Facts

On June 10, 2004, Barbosa filed a **Petition for Cancellation and Quieting of Titles**^[7] against Jorge Vargas III, Benito Montinola, IVQ, and the Register of Deeds of Quezon City, which case was docketed as Civil Case No. Q04-52842 in the RTC of Quezon City, Branch 222.

Barbosa averred that on October 4, 1978, he bought from Therese Vargas a parcel of land identified as Lot 644-C-5 located on Visayas Avenue, Culiati, Quezon City (subject property). Thereafter, Therese Vargas surrendered to Barbosa the owner's duplicate copy of her title, Transfer Certificate of Title (TCT) No. 159487. In the Deed of Absolute Sale in favor of Barbosa and in the copy of Therese Vargas's TCT No. 159487, the subject property was described as:

A parcel of land (Lot 644-C-5 of the subdivision plan, LRC, Psd-14038, being a portion of Lot 644-C, Fls-2544-D, LRC, Record No. 5975); situated in the District of Culiati, Quezon City, Island of Luzon. x x x containing an area of THREE THOUSAND FOUR HUNDRED FIFTY-TWO (3,452) square meters, more or less.^[8]

Barbosa said that he took possession of the subject property and paid real estate taxes thereon in the name of Therese Vargas. Sometime in 2003, Barbosa learned that Therese Vargas's name was cancelled and replaced with that of IVQ in the tax declaration of the subject property.

Upon investigation, Barbosa found out that the subject property was previously registered in the name of Kawilihan Corporation under TCT No. 71507. Therese Vargas acquired the subject property from Kawilihan Corporation and the date of entry of her TCT No. 159487 was November 6, 1970. On the other hand, IVQ supposedly bought the subject property from Jorge Vargas III who, in turn, acquired it also from Kawilihan Corporation. The date of entry of Jose Vargas III's TCT No. 223019 was October 14, 1976. This title was later reconstituted and re-numbered as TCT No. RT-76391. The title of IVQ, TCT No. 253434, was issued on August 6, 2003.

Barbosa argued that even without considering the authenticity of Jorge Vargas III's title, Therese Vargas's title bore an earlier date. Barbosa, thus, prayed for the trial court to issue an order directing the Office of the Register of Deeds of Quezon City to cancel Jorge Vargas III's TCT No. 223019 and IVQ's TCT No. 253434 and adjudicating ownership of the subject property to him.^[9]

In their Answer^[10] to the above petition, Jose Vargas III, Benito Montinola, and IVQ (respondents in the court *a quo*) countered that the alleged title from where Barbosa's title was allegedly derived from was the one that was fraudulently acquired and that Barbosa was allegedly part of a syndicate that falsified titles for purposes of "land grabbing." They argued that it was questionable that an alleged lot owner would wait for 30 years before filing an action to quiet title. They prayed for the dismissal of the petition and, by way of counterclaim, sought the award of moral and exemplary damages, attorney's fees and costs of suit.

The Register of Deeds of Quezon City neither filed an answer to Barbosa's petition nor participated in the trial of the case.

During trial, Barbosa testified, *inter alia*, that he is the owner of the subject property that he bought from Therese Vargas. The property was at that time registered in her name under TCT No. 159487. Barbosa took possession of the subject property seven days after he bought the same and he employed a caretaker to live therein. Before Therese Vargas, the owner of the property was Kawilihan Corporation, which company was owned by Jorge Vargas.^[11] Barbosa stated that the subject property remained registered in the name of Therese Vargas as he entrusted her title to another person for custody but the said person went to Canada. Barbosa paid real estate taxes on the subject property in the name of Kawilihan Corporation from 1978 until 2002. From 2003 to 2006, he paid real estate taxes thereon in the name of Therese Vargas.^[12]

Barbosa added that in the year 2000, Santiago Sio Soy Une, allegedly the president of Lisan Realty and Development Corporation (Lisan Realty), presented to Barbosa's caretaker a Deed of Sale with Assumption of Mortgage,^[13] which was allegedly executed by Jorge Vargas III and Lisan Realty involving the subject property. Barbosa then went on to compile documents on the transactions relating to the subject property.

Barbosa testified that in the Deed of Sale with Assumption of Mortgage of Jorge Vargas III and Santiago Sio Soy Une, the Friar Land Survey (FLS) number was denominated as FLS-2554-D, while in the title of Therese Vargas it was FLS-2544-D. Barbosa obtained a certification from the Lands Management Bureau that FLS-2554-D was not listed in their electronic data processing (EDP) listing, as well as a

certification from the DENR that FLS-2554-D had no records in the Land Survey Records Section of said office. On the other hand, he obtained a certification from the Lands Management Bureau that Lot 644 subdivided under FLS-2544-D was listed in their records.^[14] Barbosa also learned that IVQ was registered with the Securities and Exchange Commission only on June 5, 1998. Moreover, on January 7, 2004, IVQ filed Civil Case No. Q-17499(04), which is a petition for the cancellation of an adverse claim filed by Santiago Sio Soy Une (*Exhibit "RR"*). In a portion of the transcript of stenographic notes (TSN) in said case, it was stated that IVQ bought the property from Therese Vargas, not from Jorge Vargas III.^[15]

Barbosa furthermore secured a certification from the EDP Division of the Office of the City Assessor in Quezon City that there were no records of real property assessments in the name of Jorge Vargas III as of August 15, 2006. Moreover, Barbosa stated that Atty. Jesus C. Apelado, Jr., the person who notarized the March 3, 1986 Deed of Absolute Sale between Jorge Vargas III and IVQ, was not authorized to do so as Atty. Apelado was only admitted as a member of the Philippine Bar in 1987. Also, the notarial register entries, *i.e.*, the document number, page number, book number and series number, of the Deed of Absolute Sale in favor of IVQ were exactly the same as those in the special power of attorney (SPA) executed by Jorge Vargas III in favor of Benito Montinola, who signed the Deed of Absolute Sale on behalf of Jorge Vargas III. The Deed of Absolute Sale and the SPA were notarized by different lawyers but on the same date.^[16]

On the part of the respondents in the court *a quo*, they presented a lone witness, Atty. Erlinda B. Espejo. Her testimony was offered to prove that she was the legal consultant of IVQ; that IVQ's TCT No. 253434 was acquired from Jorge Vargas III through TCT No. RT-76391; that Jorge Vargas III's title was mortgaged at Philippine National Bank (PNB), Bacolod; that Benito Montinola, the attorney-in-fact of Jorge Vargas III, sold the subject property to Lisan Realty who in turn assigned its rights to IVQ and; that IVQ redeemed the property from PNB. Barbosa's counsel offered to stipulate on the offer so that the witness' testimony could already be dispensed with.^[17]

As to the supposed sale to Lisan Realty and Lisan Realty's assignment of rights to IVQ, the counsel for Barbosa agreed to stipulate on the same if the transactions were annotated in Jorge Vargas III's title. The counsel for IVQ said that they were so annotated. Upon inquiry of the trial court judge, the counsel for IVQ clarified that the transfers or assignment of rights were done at the time that the subject property was mortgaged with PNB. The property was then redeemed by IVQ on behalf of Jorge Vargas III.^[18]

The Decision of the RTC

On June 15, 2007, the RTC granted Barbosa's petition and ordered the cancellation of IVQ's TCT No. 253434.^[19] The trial court noted that while the original copy of the Deed of Absolute Sale in favor of Barbosa was not presented during trial, Barbosa presented secondary evidence by submitting to the court a photocopy of said deed and the deed of sale in favor of his predecessor-in-interest Therese Vargas, as well as his testimony. The RTC ruled that Barbosa was able to establish the existence and due execution of the deeds of sale in his favor and that of Therese Vargas.

The Certification^[20] dated February 12, 2004 from the Office of the Clerk of Court and Ex-Officio Sheriff of the RTC, Manila stated that the page on which the Deed of Sale dated October 4, 1978 in favor of Barbosa might have been probably entered was torn. This, however, did not discount the possibility that said deed was actually notarized and recorded in the missing notarial records page. Moreover, the RTC found that Barbosa adduced evidence that proved the payment^[21] of Therese Vargas to Jorge Vargas, as well as the payment of Barbosa to Therese Vargas.

The RTC further observed that Therese Vargas's TCT No. 159487 and Jorge Vargas III's TCT No. 223019 bear more or less identical technical descriptions of Lot 644-C-5, except for their friar survey plan numbers. However, the Lands Management Bureau and Land Survey Records Section of the DENR, NCR issued certifications attesting that their respective offices had no record of FLS-2554-D, the land survey number in the certificates of title held by Jorge Vargas III and IVQ. On the other hand, Barbosa presented a certified true copy of the subdivision survey plan FLS-2544-D from the Lands Management Bureau, thereby bolstering his claim that the title of Therese Vargas was an authentic transfer of the title of Kawilihan Corporation.

Therese Vargas's TCT No. 159487 was also issued earlier in time than Jorge Vargas III's TCT No. 223019. Not only was the original of Therese Vargas's TCT No. 159487 presented in court, but the same was also proven to have existed according to the Certification from the LRA dated October 6, 2003 that Judicial Form No. 109-D with Serial No. 1793128 - pertaining to TCT No. 159487 - was issued by an authorized officer of the Register of Deeds of Quezon City.

In contrast, the RTC noted that IVQ was not able to prove its claim of ownership over the subject property. The deed of sale in favor of IVQ, which was supposedly executed in 1986, was inscribed only in 2003 on Jorge Vargas III's TCT No. RT-76391 that was reconstituted back in 1993. Instead of substantiating their allegations, respondents in the court *a quo* opted to offer stipulations, such as on the matter of Lisan Realty's assignment of its rights of ownership over the subject property in favor of IVQ. However, the said assignment was not reflected in the title of Jorge Vargas III. The RTC likewise found it perplexing that when IVQ filed a petition for cancellation of encumbrance in Jorge Vargas III's title, docketed as LRC No. Q-17499 (04), it alleged therein that it acquired the subject property from Therese Vargas, not Jorge Vargas III.

The trial court added that while there is no record of tax declarations and payment of real estate taxes in the name of Jorge Vargas III, Therese Vargas declared the subject property for taxation purposes in her name and, thereafter, Barbosa paid real estate taxes thereon in her name. On the other hand, the only tax declaration that IVQ presented was for the year 2006. The RTC also opined that while Barbosa was not able to sufficiently establish his possession of the subject property as he failed to put on the witness stand the caretaker he had authorized to occupy the property, IVQ also did not gain control and possession of the subject property because the same continued to be in the possession of squatters.

To impugn the above decision of the trial court, IVQ, alone, filed a **Motion for Reconsideration/New Trial/Reopening of Trial**^[22] under the representation of a new counsel.^[23] In its Motion for Reconsideration, IVQ argued that the RTC erred

in concluding that Barbosa's title is superior to its title.^[24] IVQ alleged that Barbosa submitted forged and spurious evidence before the trial court. On the other hand, in its Motion for New Trial, IVQ alleged that it was defrauded by its former counsel, Atty. Leovigildo Mijares, which fraud prevented it from fully presenting its case in court. IVQ also averred that it found newly-discovered evidence, which it could not have discovered and produced during trial.

In an **Order**^[25] dated November 28, 2007, the trial court denied IVQ's Motion for Reconsideration/New Trial/Reopening of Trial for lack of merit.

IVQ's Appeal in the Court of Appeals

IVQ interposed an appeal^[26] to the Court of Appeals. In its Appellant's Brief, IVQ first laid down its version of the facts, to wit:

On 12 March 1976, Kawilihan Corporation, represented by its President and Chairman of the Board Jorge B. Vargas, executed a Deed of Absolute Sale x x x, whereby he sold the subject property to appellant Vargas, III.

On 14 October 1976, TCT No. 71507 was cancelled and in lieu thereof TCT No. 223019 x x x was issued in the name of appellant Vargas, III who on 23 December 1976 executed a Special Power of Attorney x x x in favor of appellant Benito C. Montinola, Jr. with power among other things to mortgage the subject property for and in behalf of appellant Vargas, III.

On 25 December 1976, appellant Vargas, III mortgaged the subject property to the Philippine National Bank (PNB), Victorias Branch, Negros Occidental as security for a loan in the principal amount of P506,000.00.

On 04 October 1978, Therese Vargas executed a Deed of Absolute Sale x x x wherein she sold the subject property to appellee Barbosa who however did not register the said sale with the Registry of Deeds of Quezon City. It appears that Therese Vargas was able to secure TCT No. 159487 x x x in her name on 06 November 1970 covering the subject property.

Meanwhile, appellant Vargas, III executed another Special Power of Attorney x x x in favor of appellant Montinola, Jr. with power among other things to sell the subject property for and in behalf of appellant Vargas, III. Thus, on 03 March 1986, during the effectivity of the mortgage contract with PNB, appellant Montinola sold the subject property to appellant IVQ for and in consideration of the amount of P450,000.00.^[27]

After the alleged sale of the subject property to IVQ, the following incidents transpired:

When appellant Vargas, III failed to pay his loan, PNB foreclosed the mortgage and in the public auction that followed, the subject property was sold to PNB.