

## SECOND DIVISION

[ G.R. No. 225929, January 24, 2018 ]

**JOSE V. GAMBITO, PETITIONER, V. ADRIAN OSCAR Z. BACENA,  
RESPONDENT.**

### RESOLUTION

**REYES, JR., J:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>[2]</sup> dated April 8, 2016 and Resolution<sup>[3]</sup> dated July 19, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 140980.

#### The Antecedents

The records show that before the Municipal Trial Court (MTC) of Bayombong, Nueva Vizcaya, Jose V. Gambito (Gambito) filed a complaint for quieting of title, declaration of nullity of title, specific performance and damages over a parcel of land located in La Torre South, Bayombong, Nueva Vizcaya, against Adrian Oscar Z. Bacena (Bacena), one of the defendants therein.

Gambito alleged before the MTC that he is the true and registered owner of a certain parcel of land located in La Torre South, Bayombong, Nueva Vizcaya containing an area of 8,601 square meters, more or less, under Transfer Certificate of Title (TCT) No. T-149954. The said parcel of land was acquired by him through a Deed of Donation executed on July 9, 2008 by his mother, Luz V. Gambito (Luz), who held said property under TCT No. 92232. Her mother, Luz, acquired the same property from Dominga Pascual (Pascual) and her co-owner, Rosalina Covita (Covita), through a Deed of Sale dated December 16, 1994 which finds its origin from Original Certificate of Title (OCT) No. R-578 issued on March 30, 1916.<sup>[4]</sup>

Gambito claimed that through his efforts, he discovered that Bacena surreptitiously secured before the Community Environment and Natural Resources Office (CENRO), a patent title, *Katibayan ng Orihinal naTitulo Bilang P-21362* covering 4,259 sq m, more or less, which was a part and portion of the same lot registered in Gambito's name under TCT No. T-149954. Gambito further alleged that he is aware his parents filed a protest before the CENRO, Bayombong, Nueva Vizcaya on August 31, 2007 against Bacena but the same was later withdrawn by his parents upon realization that said office is not the proper forum and that the order of dismissal was issued on April 8, 2009 and thus there is a need to clear up the cloud cast by the title of Bacena over his ancient title.

Bacena, in his defense, alleged that the folder of Petronila Castriciones (Castriciones), survey claimant of Lot No. 1331, Cad 45, La Torre, Bayombong, Nueva Vizcaya, is supported by the records of the CENRO, Bayombong, Nueva Vizcaya. The title OCT No. P-21362 was regularly issued and was based on authentic documents.<sup>[5]</sup> On the other hand, the title of Gambito's predecessor-in-interest is

evidently null and void *ab initio* because it was derived from a Deed of Sale, dated December 16, 1994 which supposedly signed by vendor Pascual although she was already dead, having died on August 25, 1988 or after a period of seven years. Moreover, the signatory-vendor, Covita denied that she ever signed the Deed of Sale which is supposedly that of her husband, Mariano G. Mateo, supposedly signifying his conformity to the sale, is likewise a fake signature of her husband because he was already dead at the time of the execution of the document having died on June 14, 1980.<sup>[6]</sup>

By way of counterclaim, Bacena prayed, among others, that Gambito's Title (TCT No. T-149954) and that of his predecessor-in-interest, Luz, TCT No. T-92232 and the Deed of Sale, basis of TCT No. T-92232 as null and void; and to declare that title of Bacena, OCT No. P-21262, valid and effective and be cleared/quieted of any cloud thereto.<sup>[7]</sup>

### **Ruling of the MTC**

After the parties' presentation of evidence, the MTC rendered a Decision<sup>[8]</sup> dated March 11, 2014 in favor of Gambito. The MTC considered the defense's position as a collateral attack on Gambito's title.<sup>[9]</sup> The MTC ruled that the issue on the validity of title, whether or not fraudulently issued, can only be raised in action expressly instituted for that purpose.

Moreover, the MTC ruled that in successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest, and here, the origin of Gambito's title was issued in 1916 and while Bacena's title was only issued on February 25, 1999.<sup>[10]</sup>

### **Ruling of the Regional Trial Court**

Aggrieved, Bacena appealed before the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, Branch 27, which granted the appeal in a Decision<sup>[11]</sup> rendered on November 21, 2014.

In its ruling, the RTC laid that in an action for quieting of title, it is an indispensable requisite that the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action, which is however wanting at the time Gambito filed his verified Complaint.<sup>[12]</sup>

The RTC also noted that Gambito's title was derived through a certificate of title which was based on a falsified Deed of Sale which was made to appear to have been signed by the parties who were long dead at the time of its execution.<sup>[13]</sup>

Moreover, the RTC found that Bacena's title has become indefeasible and incontrovertible as it has been possessed by Bacena and his predecessors-in-interest and never been occupied by Gambito and his mother.

Contrary to the MTC's ruling, the RTC held that Bacena's counterclaim partakes of a direct attack on Gambito's title.

The RTC likewise found that the title in the name of Bacena was regularly issued as he and his predecessors have been in undisturbed possession, occupation and

utilization of Lot No. 1331 as early as October 1, 1913 when it was cadastrally surveyed and even before it; has always been declared for taxation purposes with taxes thereof duly paid yearly; and that as private property, it is not within the jurisdiction of the Bureau of Lands to grant it to public land application.<sup>[14]</sup>

The RTC awarded damages in favor of Bacena.

### **Ruling of the CA**

On appeal, the CA, in its Decision<sup>[15]</sup> dated April 8, 2016, affirmed the RTC's Decision dated November 21, 2014. The CA agreed with the findings and ruling of the RTC.

Undaunted, Gambito filed a Motion for Reconsideration of the said decision of the CA which was however denied in its Resolution<sup>[16]</sup> dated July 19, 2016.

Hence, this petition for review on *certiorari*.

In support of the petition, Gambito assails the decision of the CA claiming that it is not in consonance with law and jurisprudence. The underlying issues presented by Gambito for resolution are as follows, viz.:

1. The decision did not properly address the important issue on laches;
2. The decision misapplied the concept of transferee in good faith; and
3. The decision misappreciated the objection on the award for damages.

### **Ruling of the Court**

The petition is denied.

### **The decision of the CA is in consonance with law and jurisprudence**

On the issue of laches, the decision of the CA properly addressed the important issue thereon and the CA correctly held that it should be Bacena and not the Gambito who should invoke laches.

Laches is defined as the failure or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.<sup>[17]</sup>

It should be noted that the CA found that Bacena has no reason to doubt his own ownership and possession of Lot No. 1331, as established in this case obtained through the right of Castriciones. Moreover, it was Gambito who disturbed that open, continuous, peaceful, adverse and notorious possession of Bacena and his predecessors-in-interest. Thus, Bacena is not expected to assert his right for having possession and title to the land in dispute and the CA is correct when it found that Bacena has no reason to doubt his own ownership and possession of Lot No. 1331. Hence, the Court is in accord with the CA when it held that laches cannot apply and it should be Bacena and not Gambito who should invoke laches.