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FIRST DIVISION

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

IVQ LANDHOLDINGS, INC., *petitioner, vs.* **REUBEN BARBOSA,** *respondent*.

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; QUIETING OF TITLES; AS THE NEW PIECES OF DOCUMENTARY EVIDENCE ADDUCED TENDED TO CAST DOUBT ON THE VERACITY OF CLAIM OF OWNERSHIP, THE COURT DEEMED IT PROPER THAT FURTHER PROCEEDINGS BE UNDERTAKEN TO VERIFY THE AUTHENTICITY OF THE PARTIES' CERTIFICATES OF TITLE AND OTHER DOCUMENTARY EVIDENCE.— In this petition for review on *certiorari* under Rule 45 of the Rules of Court, petitioner IVQ Landholdings, Inc. (IVQ) assails the Decision x x x of the Court of Appeals x x x [affirming] the decision x x x of the Regional Trial Court (RTC) of Quezon City x x x [adjudicating] 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. x x x Before this Court, however, IVQ adduced new pieces of documentary evidence that tended to cast doubt on the veracity of Barbosa's claim of ownership. x x x After reviewing the factual and procedural antecedents of this case, the Court deems it appropriate that further proceedings be undertaken in order to verify the authenticity and veracity of the parties' certificates of title and other documentary evidence. For sure, the Court is aware that the aforesaid evidence belatedly introduced by IVQ are not technically newly-discovered evidence, given that the same could have been discovered and produced at the trial of the case had IVQ exercised reasonable diligence in obtaining them. Nonetheless, we find that the above evidence cannot simply be brushed aside on this ground alone. The same are too material to ignore and are relevant in ultimately resolving the question of ownership of the subject property. x x x Given that the Court is not a trier of facts and there still are factual matters that need to be evaluated, the proper recourse is to remand the case to the Court of Appeals for the conduct of further proceedings.

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> x x x Aside from receiving and evaluating evidence relating to the pieces of documentary evidence submitted by IVQ to this Court, the Court of Appeals may likewise receive any other additional evidence that the parties herein may submit on their behalf.

APPEARANCES OF COUNSEL

Daniel Y. Laogan Law Office for petitioner.
Egmedio J. Castillon, Jr. for 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.

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[1] *Rollo*, pp. 3-63.

[2] *Id.* at 64-76; penned by Associate Justice Amelita G. Tolentino with Associate Justices Estela M. Perlas-Bernabe (now a member of this Court) and Stephen C. Cruz concurring.

[3] *Id.* at 77-80.

[4] *Id.* at 129-136; penned by Judge Rogelio M. Pizarro.

[5] CA *rollo*, pp. 168-183.

[6] *Id.* at 189-199.

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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, Culiat, 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 Culiat, 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

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[7] *Rollo*, pp. 105-109.

[8] Records, Vol. I, pp. 7-8.

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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

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[9] Barbosa attached to his petition (1) a photocopy of the Deed of Absolute Sale in his favor (*Annex "A"*); (2) a photocopy of Therese Vargas's TCT No. 159487 (*Annex "B"*); (3) a photocopy of a tax declaration of the subject property in the name of IVQ (*Annex "C"*); (4) a photocopy of Jose Vargas III's TCT No. 223019 (*Annex "D"*); (5) a photocopy of a *Barangay* Certification, stating that Therese Vargas is the owner of the subject property (*Annex "E"*); and (6) a photocopy of a tax declaration of the subject property in the name of Therese Vargas (*Annex "F"*). (Records, Vol. I, pp. 7-16.)

[10] Records, Vol. I, pp. 39-42.

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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,

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[11] Jorge Vargas is also referred to as "Jorge Vargas, Sr." and "Jorge B. Vargas" in other parts of the records.

[12] TSN, June 29, 2006, pp. 7-25.

[13] *Id.* at 31. Santiago Sio Soy Une was also referred to as "Santiago Suysusuni" in other parts of the records.

[14] TSN, June 29, 2006, pp. 47-51.

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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]

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[15] TSN, August 22, 2006, pp. 13-17.

[16] *Id.* at 19-32.

[17] TSN, February 15, 2007, pp. 3-4.

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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.

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[18] *Id.* at 10-11.

[19] *Rollo*, p. 136.

[20] Records, Vol. I, p. 105.

[21] *Id.* at 121.

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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:

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[22] *Rollo*, pp. 137-160.

[23] Records, Vol. I, pp. 696-698.

[24] *Rollo*, p. 139.

[25] *Id.* at 182-185.

[26] Records, Vol. II, pp. 812-813.

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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 ₱506,000.00.

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 ₱450,000.00.[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.

A Certificate of Sale was issued in favor of PNB but the latter did not cause the registration of the certificate of sale right away.

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[27] CA *rollo*, pp. 40-41.

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Sometime in 1991, appellant Montinola, Jr. caused the filing of a Petition for Reconstitution of TCT No. 223019 which was granted in 1993. Consequently, TCT No. RT-76391 was issued, in the name of appellant Vargas, III, in lieu of TCT No. 223019. On 13 July 1993, the Certificate of Sale in favor of PNB was inscribed on appellant Vargas, III's new title.

On 17 February 1994, appellant Vargas, III executed a Deed of Sale with Assumption of Mortgage x x x wherein he sold to Lisan Realty and Development Corporation (Lisan Realty) the subject property with the latter assuming the loan balance with PNB.

On 23 June 1994, appellant IVQ, for and in behalf of defendant Vargas, III, redeemed the subject property from PNB and on 24 June 1994, the Certificate of Redemption was annotated at the dorsal portion of TCT No. RT-76390.

On 21 August 2000, Lisan Realty caused the annotation of an Affidavit of Adverse Claim x x x on TCT No. RT-76390.

Thereafter, appellant IVQ filed a Petition for Cancellation of Encumbrance x x x with the Regional Trial Court of Quezon City, Branch 220, docketed as LRC Case No. Q-17499 (04).

On 06 August 2003, the Register of Deeds of Quezon City cancelled TCT No. RT-76390 and in lieu thereof TCT No. 253434 was issued in the name of appellant IVQ.

On 11 February 2004, the Regional Trial Court of Quezon City, Branch 220 rendered a Decision x x x granting appellant IVQ's Petition for Cancellation of Encumbrance and ordering the cancellation of the annotation of the adverse claim on TCT No. 253434.

In August 2004, appellant IVQ instituted [a] Complaint x x x for unlawful detainer with the Metropolitan Trial Court of Quezon City, Branch 38 against several persons who were occupying the subject property without any right whatsoever. The case was docketed as Civil Case No. 38-33264.

On 26 October 2004, the Metropolitan Trial Court of Quezon City, Branch 38 rendered a Decision x x x in favor of appellant IVQ ordering the defendants therein to vacate the subject property.[28]

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[28] *Id.* at 41-43.

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The Court of Appeals, however, paid no heed to IVQ's appeal as it affirmed the ruling of the RTC. The appellate court held that Barbosa was able to prove his ownership over the subject property, while IVQ presented a rather flimsy account on the transfer of the subject property to its name.

IVQ filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration on the above judgment, but the Court of Appeals denied the same in its assailed Resolution dated July 30, 2010.

IVQ's Petition for Review on Certiorari

IVQ instituted before this Court the instant petition for review on *certiorari* on August 20, 2010, which prayed for the reversal of the above rulings of the Court of Appeals. In a **Resolution**[29] **dated September 29, 2010**, the Court initially denied IVQ's petition for its failure to show that the Court of Appeals committed any reversible error in its assailed rulings.

IVQ filed a **Motion for Reconsideration**[30] on the denial of its petition. To prove that its title to the subject property is genuine, IVQ averred that the Deed of Absolute Sale in favor of Jorge Vargas III was notarized by Atty. Jejomar C. Binay, then a notary public for Mandaluyong. IVQ attached to its motion for reconsideration, among others, a photocopy of a Certification[31] dated October 8, 2010 from the Office of the Clerk of Court of the RTC of Pasig City that "ATTY. JEJOMAR C. BINAY was appointed Notary Public for and in the Province of Rizal for the year 1976" and that he "submitted his notarial reports for the period January, 1976 up to December, 1976." IVQ also attached a photocopy of the Deed of Absolute Sale in favor of Jorge Vargas III obtained from the records of the National Archives on October 14, 2010.[32]

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[29] *Rollo*, p. 192.

[30] *Id.* at 199-249.

[31] *Id.* at 250.

[32] *Id.* at 251-254.

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To prove that Barbosa's claim of ownership is spurious, IVQ attached to its motion for reconsideration the following documents:

(1) a photocopy of a Certification dated October 27, 2010 from the Office of the Bar Confidant of the Supreme Court that Espiridion J. Dela Cruz, the notary public who supposedly notarized the Deed of Absolute Sale in favor of Therese Vargas, is not a member of the Philippine Bar;[33]

(2) a photocopy of the Certification dated October 19, 2010 from the National Archives of the Philippines that a copy of the Deed of Absolute Sale in favor of Therese Vargas is not extant in the files of said office;[34]

(3) a Certification dated October 12, 2010 from the Office of the Clerk of Court and Ex-Officio Sheriff of the RTC of Manila, stating that the notarial entries of Atty. Santiago R. Reyes in the Deed of Absolute Sale between Therese Vargas and Barbosa — Doc. No. 1947, Page 92, Book No. XIV, Series of 1978 — actually pertained to a different deed of sale;[35]

(4) photocopies of pages 90, 91 and 92, Book XIV, Series of 1978 of Atty. Santiago R. Reyes's notarial records, which were reproduced from the National Archives on October 14, 2010, showing that the Deed of Absolute Sale between Therese Vargas and Barbosa was not found therein;[36]

(5) a photocopy of a Certification dated October 14, 2010 of the City Treasurer's Office of the City of Manila, stating that Residence Certificate No. A-423263 — the residence certificate number of Therese Vargas in the Deed of Absolute Sale in favor of Barbosa — was not among those allotted to the City of Manila;[37] and

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[33] *Id.* at 268.

[34] *Id.* at 269.

[35] *Id.* at 273.

[36] *Id.* at 275-280.

[37] *Id.* at 281.

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(6) a letter dated October 20, 2010 from Director Porfirio R. Encisa, Jr. of the LRA Department on Registration, explaining that the land survey number of FLS-2554-D in IVQ's TCT No. 253434 was a mere typographical error and it should have been FLS-2544-D.[38]

In a Resolution[39] dated December 15, 2010, the Court denied IVQ's Motion for Reconsideration.

Undaunted, IVQ filed a Second Motion for Reconsideration,[40] arguing that it was able to submit new pieces of documentary evidence that surfaced for the first time when its Motion for Reconsideration was submitted by its new counsel. IVQ entreated the Court to consider the same in the higher interest of justice.

Barbosa opposed[41] the above motion, countering that the same is a prohibited pleading. Barbosa maintained that it was impossible for IVQ to acquire ownership over the subject property as the latter was only incorporated on June 5, 1998. Thus, IVQ could not have bought the property from Jorge Vargas III on March 3, 1986 or subsequently redeemed the property in 1994.

In a Resolution[42] dated June 6, 2011, the Court reinstated IVQ's petition and required Barbosa to comment thereon.

Barbosa moved for a reconsideration[43] of the said resolution, citing IVQ's lack of legal personality when it supposedly purchased the subject property and IVQ's inconsistent statements as to how it acquired the same. The Court treated the above motion of Barbosa as his comment to IVQ's petition and required IVQ to file a reply thereto.[44]

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[38] *Id.* at 282.

[39] *Id.* at 283-284.

[40] *Id.* at 299-348.

[41] *Id.* at 350-351.

[42] *Id.* at 360.

[43] *Id.* at 353-359.

[44] *Id.* at 364.

In its Reply,[45] IVQ primarily argued that Barbosa did not bother to refute the allegations and the evidence on the spuriousness of his title and instead sought to divert the issue by attacking IVQ's corporate existence.

The Court, thereafter, gave due course to the petition and required the parties to submit their respective memoranda.[46]

In its memorandum,[47] IVQ avers that while the evidence supporting its case surfaced for the first time after its petition was filed with this Court, peculiar circumstances involving the actuations of IVQ's former counsel and Barbosa's introduction of spurious documents warrant the suspension of procedural rules in the interest of justice. IVQ insists that Barbosa was not able to prove his claim by preponderance of evidence.

Upon the other hand, Barbosa contends that IVQ could not legally claim ownership of the subject property as this claim is anchored on a Deed of Absolute Sale executed by Jorge Vargas III on March 3, 1986 while IVQ was incorporated only on June 5, 1998. Barbosa also points out that the Deed of Absolute Sale in favor of IVQ was signed only by Jorge Vargas III's representative, Benito Montinola. There is no corresponding signature on the part of the vendee. Barbosa adopts entirely the findings of the RTC and the Court of Appeals that the sale in favor of Therese Vargas is the one to be legally sustained.

The Ruling of the Court

Without ruling on the merits of this case, the Court finds that there is a need to reassess the evidence adduced by the parties to this case and thereafter reevaluate the findings of the lower courts.

To recall, Barbosa initiated this case before the trial court *via* a petition for cancellation and quieting of titles. As held in *Secuya v. De Selma*,[48]

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[45] *Id.* at 368-381.

[46] *Id.* at 414-415.

[47] *Id.* at 416-469.

[48] 383 Phil. 126, 134 (2000).

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In an action to quiet title, the plaintiffs or complainants must demonstrate a legal or an equitable title to, or an interest in, the subject real property. Likewise, they must show that the deed, claim, encumbrance or proceeding that purportedly casts a cloud on their title is in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy. This point is clear from Article 476 of the Civil Code, which reads:

> "Whenever there is cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet title."
>
> "An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein." (Emphasis supplied; citations omitted.)

The Court also stressed in *Santiago v. Villamor*[49] that in civil cases, the plaintiff must establish his cause of action by preponderance of evidence; otherwise, his suit will not prosper.

In the instant case, the trial court and the Court of Appeals adjudicated the subject property in favor of Barbosa and directed the cancellation of IVQ's certificate of title.

The trial court found that Barbosa was able to substantiate the transfer of ownership of the subject property from Kawilihan Corporation to Therese Vargas and then to Barbosa. Specifically, Barbosa established the existence and execution of the Deed of Absolute Sale dated September 11, 1970 between Kawilihan Corporation and Therese Vargas, as well as the Deed of Absolute Sale dated October 4, 1978 between Therese Vargas and Barbosa. In like manner, the trial court ruled that Barbosa adduced evidence that purportedly proved the payment of Therese Vargas to Kawilihan Corporation, and the payment of Barbosa to Therese Vargas. Also, the trial court found that Barbosa was able to prove the validity of Therese Vargas's TCT No. 159487. Moreover, the friar land survey number in Therese Vargas's

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[49] 699 Phil. 297, 303-304 (2012).

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TCT No. 159487— FLS-2544-D — was the one found to be extant in the records of Lands Management Bureau, not FLS-2554-D, the survey number in the certificates of title of Jorge Vargas III and IVQ.

On the other hand, the trial court found that IVQ failed to establish its claim of ownership over the subject property, given the inconsistent statements on how the property was transferred from Kawilihan Corporation to Jorge Vargas III and eventually to IVQ.

Before this Court, however, IVQ adduced new pieces of documentary evidence that tended to cast doubt on the veracity of Barbosa's claim of ownership.

To impugn the validity of the Deed of Absolute Sale between Kawilihan Corporation and Therese Vargas, IVQ submitted a copy of the Certification from the Office of the Bar Confidant that Espiridion J. Dela Cruz, the notary public who supposedly notarized the said deed, is not a member of the Philippine Bar. IVQ also submitted a copy of the Certification from the National Archives, stating that the Deed of Absolute Sale in favor of Therese Vargas was not found in their records.

Anent the Deed of Absolute Sale between Therese Vargas and Barbosa, IVQ presented a Certification from the Office of the Clerk of Court and Ex-Officio Sheriff of the RTC of Manila, stating that the notarial entries of Atty. Santiago R. Reyes in said deed, *i.e.*, Doc. No. 1947, Page 92, Book No. XIV, Series of 1978, pertained to a deed of sale between other individuals. Also, the Deed of Absolute Sale in favor of Barbosa was not found in the photocopies of pages 90, 91, and 92 of the aforesaid notarial records of Atty. Santiago R. Reyes, which pages were reproduced from the National Archives. IVQ also submitted a Certification from the City Treasurer's Office of the City of Manila, stating that Therese Vargas's Residence Certificate No. A-423263 in the Deed of Absolute Sale in favor of Barbosa was not among those allotted to the City of Manila.

Furthermore, IVQ submitted a letter from Director Porfirio R. Encisa, Jr. of the LRA Department of Registration, stating that

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the survey number FLS-2554-D in IVQ's TCT No. 253434 was a typographical error and the same should have been FLS-2544-D.

On the other hand, to bolster its claim of ownership over the subject property, IVQ presented a copy of the Deed of Absolute Sale[50] dated March 12, 1976 between Kawilihan Corporation and Jorge Vargas III that was obtained from the records of the National Archives. IVQ also submitted a copy of the Certification from the Office of the Clerk of Court of the RTC of Pasig City that Atty. Jejomar C. Binay, the officer who notarized the said deed, was indeed appointed as a notary public for the province of Rizal for the year 1976 and the latter submitted his notarial reports for the said year.

Interestingly, despite the claim of both parties that their respective titles could be traced to TCT No. 71507 in the name of Kawilihan Corporation, neither of them thought to submit a certified true copy of the cancelled TCT No. 71507, which would have indicated to whom the subject property had in fact been transferred.

The parties likewise admit in their pleadings that there is an on-going investigation being conducted by the LRA on the authenticity and genuineness of the certificates of title involved in the present case and to date, the LRA has not issued any official report pertaining to said investigation.

After reviewing the factual and procedural antecedents of this case, the Court deems it appropriate that further proceedings be undertaken in order to verify the authenticity and veracity of the parties' certificates of title and other documentary evidence.

For sure, the Court is aware that the aforesaid evidence belatedly introduced by IVQ are not technically newly-discovered evidence, given that the same could have been discovered and produced at the trial of the case had IVQ exercised reasonable diligence in obtaining them.[51] Nonetheless, we find that the above evidence cannot simply be brushed aside on this ground

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[50] *Rollo*, pp. 251-254.

[51] See *Custodio v. Sandiganbayan*, 493 Phil. 194 (2005).

alone. The same are too material to ignore and are relevant in ultimately resolving the question of ownership of the subject property. In *Mangahas v. Court of Appeals*,[52] we recognized the long line of jurisprudence that:

> [I]t is always in the power of this Court to suspend its own rules, or to except a particular case from its operation, whenever the purposes of justice require it. This Court is mindful of the policy of affording litigants the amplest opportunity for the determination of their cases on the merits and of dispensing with technicalities whenever compelling reasons so warrant or when the purpose of justice requires it. (Citations omitted.)

Indeed, the alleged defects in the notarization of the Deed of Absolute Sale dated September 11, 1970 between Kawilihan Corporation and Therese Vargas and the Deed of Absolute Sale dated October 4, 1978 between Therese Vargas and Barbosa are by no means trivial.

As the Court stressed in *Vda. De Rosales v. Ramos*:[53]

> The importance attached to the act of notarization cannot be overemphasized. Notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document thus making that document admissible in evidence without further proof of its authenticity. A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.
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> x x x x x x x x x
>
> The notary public is further enjoined to record in his notarial registry the necessary information regarding the document or instrument notarized and retain a copy of the document presented to him for acknowledgment and certification especially when it is a contract. The notarial registry is a record of the notary public's official acts.

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[52] 588 Phil. 61, 82 (2008).

[53] 433 Phil. 8, 15-16 (2002).

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Acknowledged documents and instruments recorded in it are considered public document. If the document or instrument does not appear in the notarial records and there is no copy of it therein, doubt is engendered that the document or instrument was not really notarized, so that it is not a public document and cannot bolster any claim made based on this document. x x x. (Citations omitted.)

Furthermore, in *Bitte v. Jonas*,[54] the Court had occasion to discuss the consequence of an improperly notarized deed of absolute sale. Thus —

Article 1358 of the New Civil Code requires that the form of a contract transmitting or extinguishing real rights over immovable property should be in a public document. x x x.

x x x x x x x x x

Not having been properly and validly notarized, the deed of sale cannot be considered a public document. It is an accepted rule, however, that the failure to observe the proper form does not render the transaction invalid. It has been settled that a sale of real property, though not consigned in a public instrument or formal writing is, nevertheless, valid and binding among the parties, for the time-honored rule is that even a verbal contract of sale or real estate produces legal effects between the parties.

Not being considered a public document, the deed is subject to the requirement of proof under Section 20, Rule 132, which reads:

> Section 20. *Proof of private document*. – Before any private document offered as authentic is received in evidence its due execution and authenticity must be proved either:
>
> (a) By anyone who saw the document executed or written; or
>
> (b) By evidence of the genuineness of the signature or handwriting of the maker.
>
> Any other private document need only be identified as that which it is claimed to be.

Accordingly, the party invoking the validity of the deed of absolute sale had the burden of proving its authenticity and due execution. x x x. (Emphasis supplied; citations omitted.)

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[54] G.R. No. 212256, December 9, 2015.

In the instant case, should the Deeds of Absolute Sale in favor of Therese Vargas and Barbosa, respectively, be found to be indeed improperly notarized, the trial court would have erred in admitting the same in evidence without proof of their authenticity and in relying on the presumption regarding the regularity of their execution. Barbosa would then have the additional burden of proving the authenticity and due execution of both deeds before he can invoke their validity in establishing his claim of ownership.

Therefore, IVQ should be allowed to formally offer in evidence the documents it belatedly submitted to this Court and that Barbosa should equally be given all the opportunity to refute the same or to submit controverting evidence.

Given that the Court is not a trier of facts and there still are factual matters that need to be evaluated, the proper recourse is to remand the case to the Court of Appeals for the conduct of further proceedings.

In *Manotok IV v. Heirs of Homer L. Barque*,[55] the Court explained the propriety of resorting to the above procedure in this wise:

> At the same time, the Court recognizes that there is not yet any sufficient evidence for us to warrant the annulment of the Manotok title. All that the record indicates thus far is evidence not yet refuted by clear and convincing proof that the Manotok's claim to title is flawed. **To arrive at an ultimate determination, the formal reception of evidence is in order. This Court is not a trier of fact or otherwise structurally capacitated to receive and evaluate evidence *de novo*. However, the Court of Appeals is sufficiently able to undertake such function.**
>
> The remand of cases pending with this Court to the Court of Appeals for reception of further evidence is not a novel idea. It has been undertaken before — in *Republic v. Court of Appeals* and more recently in our 2007 Resolution in *Manotok v. Court of Appeals*. Our following explanation in Manotok equally applies to this case:

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[55] 595 Phil. 87, 148-149 (2008).

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> Under Section 6 of Rule 46, which is applicable to original cases for *certiorari*, the Court may, whenever necessary to resolve factual issues, delegate the reception of the evidence on such issues to any of its members or to an appropriate court, agency or office. The delegate need not be the body that rendered the assailed decision.
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> **The Court of Appeals generally has the authority to review findings of fact. Its conclusions as to findings of fact are generally accorded great respect by this Court. It is a body that is fully capacitated and has a surfeit of experience in appreciating factual matters, including documentary evidence.**
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> In fact, the Court had actually resorted to referring a factual matter pending before it to the Court of Appeals. In *Republic v. Court of Appeals*, this Court commissioned the former Thirteenth Division of the Court of Appeals to hear and receive evidence on the controversy, x x x. The Court of Appeals therein received the evidence of the parties and rendered a "Commissioner's Report" shortly thereafter. Thus, resort to the Court of Appeals is not a deviant procedure.
>
> The provisions of Rule 32 should also be considered as governing the grant of authority to the Court of Appeals to receive evidence in the present case. Under Section 2, Rule 32 of the Rules of Court, a court may, *motu proprio*, direct a reference to a commissioner when a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect. The order of reference can be limited exclusively to receive and report evidence only, and the commissioner may likewise rule upon the admissibility of evidence. The commissioner is likewise mandated to submit a report in writing to the court upon the matters submitted to him by the order of reference. In *Republic*, the commissioner's report formed the basis of the final adjudication by the Court on the matter. The same result can obtain herein. (Emphasis supplied; citations omitted.)

Aside from receiving and evaluating evidence relating to the pieces of documentary evidence submitted by IVQ to this Court, the Court of Appeals may likewise receive any other

additional evidence that the parties herein may submit on their behalf.

The Court, in particular, deems it necessary for the parties to submit a certified true copy of TCT No. 71507 that is registered in the name of Kawilihan Corporation, if possible. As previously discussed, neither of the parties submitted the same before the trial court and no explanation was likewise offered for this omission. As TCT No. 71507 is ultimately the title from which the certificates of title of Therese Vargas and Jorge Vargas III supposedly emanated, the same may indicate which of the two subsequent titles cancelled it.

It would likewise be expedient for the parties to submit evidence as to the character of their possession of the subject property, given that the trial court ruled that neither of them were able to prove their possession thereof.

The Court further reiterates its directive to the parties to submit information as to the results of the investigation of the Task Force *Titulong Malinis* of the LRA regarding the authenticity of TCT No. 159487 registered in the name of Therese Vargas and TCT No. 223019 registered in the name of Jorge Vargas III.

After the conclusion of its proceedings, the Court of Appeals is directed to submit to this Court a detailed Report on its findings and conclusions within three months from notice of this Resolution. Said report, along with all the additional evidence that will be offered by the parties, shall be thoroughly considered in order to determine with finality the issue of ownership of the subject property.

WHEREFORE, the case is **REMANDED** to the Court of Appeals for the purpose of hearing and receiving evidence, including but not limited to, those specifically required by the Court in this Resolution. The Court of Appeals is directed to conclude the proceedings and submit to this Court a Report on its findings and recommended conclusions within three (3) months from notice of this Resolution. The Court of Appeals is further directed to raffle this case immediately upon receipt of this Resolution.

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This Resolution is immediately executory.

SO ORDERED.

Sereno, C.J. (Chairperson), Velasco, Jr.,[*] *del Castillo*, and *Caguioa, JJ.*, concur.

THIRD DIVISION

[G.R. No. 197492. January 18, 2017]

CHATEAU ROYALE SPORTS and COUNTRY CLUB, INC., *petitioner, vs.* **RACHELLE G. BALBA and MARINEL N. CONSTANTE,** *respondents*.

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; EMPLOYMENT; TRANSFER OF EMPLOYEE FROM ONE AREA OF OPERATION TO ANOTHER; VALIDITY THEREOF REQUIRES BALANCE BETWEEN MANAGEMENT PREROGATIVE AND EMPLOYEE'S RIGHT TO SECURITY OF TENURE.— In the resolution of whether the transfer of the respondents from one area of operation to another was valid, finding a balance between the scope and limitation of the exercise of management prerogative and the employees' right to security of tenure is necessary. We have to weigh and consider, on the one hand, that management has a wide discretion to regulate all aspects of employment, including the transfer and re-assignment of employees according to the exigencies of the business; and, on the other, that the transfer constitutes constructive dismissal when it is unreasonable, inconvenient or prejudicial to the employee, or involves a demotion in rank or diminution of salaries, benefits and other privileges, or when

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[*] Per Raffle dated January 16, 2017.