

**FELICIANO GAITERO AND NELIA GAITERO, PETITIONERS, VS.  
GENEROSO ALMERIA AND TERESITA ALMERIA, RESPONDENTS.***G.R. No. 181812. June 08, 2011*

Ponente: ABAD, J.

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Will laches, a rule of equity, benefit one who himself slept on his supposed right?

**The Facts and the Case**

Following a cadastral survey in Barangay Ysulat, Tobias Fornier, Antique, a land registration court issued an original certificate of title [1] to Rosario O. Tomagan (Tomagan) covering a 10,741 square-meter land, designated as Lot 9960. [2] Subsequently in 1993, Tomagan subdivided the lot awarded to her into four: Lot 9960-A [3] covering 3,479 sq m; Lot 9960-B covering 1,305 sq m; Lot 9960-C [4] covering 3,073 sq m; and Lot 9960-D covering the remaining 2,884 sq m. Tomagan waived her rights over Lots 9960-A and 9960-C in favor of petitioner Feliciano Gaitero (Gaitero) and Lot 9960-B in favor of Barangay Ysulat, Tobias Fornier. She retained Lot 9960-D. [5]

Lot 9960-A that went to Gaitero adjoined Lot 9964 which belonged to respondent spouses Generoso and Teresita Almeria (the Almerias) and was covered by OCT P-14556. In June 2000, the Almerias commissioned a relocation survey of their lot and were astonished to find that Gaitero, who owned adjoining Lot 9960-A, intruded into their lot by as much as 737 sq m (the disputed area).

On August 9, 2000, apparently to settle the dispute, the Almerias waived their rights over a 158 sq m portion of the disputed area in Gaitero's favor but maintained their claim over the remaining 579 sq m. Subsequently, however, Gaitero filed an affidavit of adverse claim on the Almerias' title over the remaining 579 sq m. [6]

When barangay conciliation proceedings failed to settle the differences between the two neighbors, Gaitero filed an action for recovery of possession against the Almerias [7] before the Municipal Circuit Trial Court (MCTC) of Tobias Fornier-Anini-Y-Hamtic. Gaitero prayed for the return of the possession of the remaining 579 sq m, moral damages of P100,000.00, exemplary damages of P25,000.00, attorney's fees of P15,000.00, and litigation expenses of P10,000.00.

Gaitero claimed that he was the registered owner of Lot 9960-A, which was covered by TCT T-2544 and had an assessed value of P11,050.00; that he inherited the same from his mother, Maria Obay, who in turn inherited it from her father, Bonifacio Obay; that before the cadastral survey, Lot 9960-A was erroneously lumped with Lot 9960 in Tomagan's name; that, acknowledging the mistake, Tomagan subdivided Lot 9960 into four lots and waived her rights over Lots 9960-A and 9960-C in Gaitero's favor; that the Almerias claimed a portion of Lot 9960-A by virtue of a relocation survey and fenced it close to Gaitero's house, obstructing the latter's passageway; and that while the Almerias returned 158 sq m of the disputed portion, they refused to return to him the remaining 579 sq m.

Answering the complaint and instituting a counterclaim, the Almerias alleged that they bought Lot 9964 [8] in 1985 by virtue of an Extra-Judicial Settlement of Estate and Sale; that it was Gaitero who unlawfully encroached on the 737 sq m portion of Lot 9964; and that, while they had waived a portion of the disputed area, Gaitero's incessant claim to the remaining 579 sq m prompted them to cancel their previous waiver of the 158 sq m. [9] The Almerias prayed for the dismissal of the complaint and the award of damages in their favor.

In his reply, Gaitero claimed that the cadastral survey was erroneous in that it included a 737 sq m portion of Lot 9960-A into Lot 9964.

After trial, on December 9, 2002 the MCTC rendered a decision, dismissing the complaint and ordering Gaitero to pay the Almerias P20,000.00 in moral damages and P20,000.00 in attorney's fees. The MCTC held that the Almerias were entitled to the possession of the disputed area considering that it is included in the technical description of their registered title. Further, the MCTC held that Gaitero acknowledged the true boundaries of 9960-A when Lot 9960 was subdivided in 1993. Indeed, the subdivision plan clearly shows that the disputed area is excluded from 9960-A.

On appeal, [10] the Regional Trial Court (RTC) reversed the decision of the MCTC. [11] The RTC held that, while the Almerias were the rightful owners of the disputed area, laches prevented them from asserting their right over the same since it took them 15 years before they did so. The RTC also ordered the Almerias to pay Gaitero moral damages of P50,000.00, attorney's fees of P15,000.00 and litigation expenses of P30,000.00.

On review, [12] the Court of Appeals (CA) rendered judgment on May 21, 2007, reversing the decision of the RTC and reinstating that of the MCTC. The CA held that the Almerias owned the disputed area since, between a registered title and a verbal claim of ownership, the former must prevail. The CA did not consider the Almerias in laches since no one had lodge a claim of ownership against their title to the disputed property. On motion for reconsideration, the CA deleted the award of moral damages, litigation expenses, and attorney's fees in its resolution of February 11, 2008.

#### The Issue Presented

The sole issue presented to the Court is whether or not the CA erred in holding that the Almerias are entitled to the possession of the disputed area as against Gaitero.

#### The Court's Ruling

Possession is an essential attribute of ownership. Necessarily, whoever owns the property has the right to possess it. [13] Here, between the Almerias' registered title of ownership and Gaitero's verbal claim to the same, the former's title is far superior.

As the MCTC, the RTC, and the CA found, the disputed area forms part of the Almerias' registered title. Upon examination, this fact is also confirmed by the subdivision plan which partitioned Tomagan's original Lot 9960. The evidence shows that the Almerias bought Lot 9964, which includes the disputed area, from the Asenjo heirs in whose names the land was originally registered. Since Gaitero was unable to prove that fraud attended the titling of the disputed area, the Almerias' right over the same became indefeasible and incontrovertible a year from registration. [14]

The Court cannot consider Gaitero's claim of ownership of the disputed area, based on his alleged continuous possession of the same, without running afoul of the rule that bars collateral attacks of registered titles. [15] Gaitero's action before the MCTC is one for recovery of possession of the disputed area. An adjudication of his claim of ownership over the same would be out of place in such kind of action. A registered title cannot be

impugned, altered, changed, modified, enlarged, or diminished, except in a direct proceeding permitted by law. Otherwise, reliance on registered titles would be lost.[16] Gaitero's action is prohibited by law and should be dismissed.

Gaitero's theory of laches cannot vest on him the ownership of the disputed area. To begin with, laches is a consideration in equity[17] and therefore, anyone who invokes it must come to court with clean hands, for he who has done inequity shall not have equity.[18] Here, Gaitero's claim of laches against the Almerias can be hurled against him. When the lot that the Almerias acquired (Lot 9964) was registered in 1979, Gaitero had constructive, if not actual, notice that the cadastral survey included the disputed area as part of the land that Leon Asenjo claimed. Yet, neither Gaitero nor his mother complained or objected to such inclusion.

Worse, when Gaitero saw the subdivision plan covering Tomagan's original Lot 9960 in 1993, it showed that the disputed area fell outside the boundaries of Lot 9960-A which he claimed. Still, Gaitero did nothing to correct the alleged mistake. He is by his inaction clearly estopped from claiming ownership of the disputed area. He cannot avail himself of the law of equity.

WHEREFORE, the Court DISMISSES the petition and AFFIRMS the decision and resolution of the Court of Appeals in CA-G.R. SP 80285 dated May 21, 2007 and February 11, 2008, respectively.

**SO ORDERED.**

Carpio, (Chairperson), Nachura, Brion,[\*] and Peralta, JJ., concur.

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[\*] Designated as additional member in lieu of Associate Justice Jose Catral Mendoza, per raffle dated June 8, 2011.

**[1] OCT P-14601.**

[2] Rollo, pp. 171-172.

[3] Eventually covered by TCT T-2544.

[4] Eventually covered by TCT T-2545.

[5] Rollo, p. 173.

[6] Id. at 180.

[7] Docketed as Civil Case 243-TF.

[8] Covered by OCT P-14556 under the name of Leon Asenjo.

[9] Rollo, p. 37.

[10] Docketed as Civil Case 3364.

[11] Decision dated August 1, 2003.

[12] Docketed as CA-G.R. SP 80285.

[13] *Spouses Bustos v. Court of Appeals*, 403 Phil. 21, 30 (2001).

[14] Section 32, Property Registration Decree (Presidential Decree 1529).

[15] Section 48, id.

[16] Ugale v. Gorospe, G.R. No.149516, September 11, 2006, 501 SCRA 376, 385.

[17] GF Equity, Inc. v. Valenzona, 501 Phil. 153, 166 (2005).

[18] De Castro v. Utility Savings, G.R. No. 166445, February 9, 2005.

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