

## THIRD DIVISION

[ G.R. No. 177235, July 07, 2014 ]

**SERCONSISION R. MENDOZA, PETITIONER, VS. AURORA  
MENDOZA FERMIN, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court which seeks to review, reverse and set aside the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals (CA), dated January 25, 2007 and March 28, 2007, respectively, in the case entitled *Aurora Mendoza Fermin v. Eduardo C. Sanchez, Serconsision R. Mendoza and Ofelia E. Abueg-Sta. Maria*, docketed as CA-G.R. CV No. 65760.

The facts are as follows:

Leonardo G. Mendoza (*Leonardo*), allegedly married to petitioner Serconsision R. Mendoza, died on November 25, 1986.<sup>[3]</sup> In the testate proceedings of her father's estate, respondent Aurora Mendoza Fermin, being the legitimate and eldest daughter of Leonardo, was appointed as one of the administratrix.<sup>[4]</sup>

In March 1989, petitioner submitted to the probate court an inventory of Leonardo's properties and included therein a parcel of land, specifically described as Lot 39, Block 12 of the consolidation and subdivision plan Pcs-04-00250 located in Parañaque City.<sup>[5]</sup> Sometime in 1990, when respondent was the one preparing an inventory of the properties of her late father as directed by the probate court, she discovered that her father and petitioner purportedly sold the said property to one Eduardo C. Sanchez as evidenced by a Deed of Absolute Sale dated September 22, 1986 (the *Deed of Absolute Sale*), for and in consideration of the amount of P150,000.00.<sup>[6]</sup> However, the Deed of Absolute Sale was registered with the Register of Deeds for the City of Parañaque only on April 30, 1991, or five (5) years after the alleged transfer.<sup>[7]</sup> Meanwhile, petitioner did not inform the tenants of the property that a certain Eduardo C. Sanchez already owned the same; and in fact, continued to collect the rentals of the property even after the alleged sale.<sup>[8]</sup>

On March 19, 1992, convinced that the signatures appearing in the Deed of Absolute Sale did not fit that of the genuine signature of her father, respondent filed a case for Annulment of Deed of Absolute Sale, Transfer Certificate of Title and Damages, praying that: (1) the Deed of Absolute Sale and the Transfer Certificate of Title (TCT) No. 52593 registered in the name of Eduardo C. Sanchez be declared null and void;<sup>[9]</sup> (2) Ofelia E. Abueg-Sta. Maria, in her capacity as the Register of Deeds of Parañaque City, be ordered to revive and reinstate TCT No. 48946 in the name of Leonardo G. Mendoza and Serconsision R. Mendoza;<sup>[10]</sup> and (3) petitioner and

Eduardo Sanchez be ordered to pay her the sum of P50,000.00 as moral damages, P20,000.00 as corrective damages, and P50,000.00 as attorney's fees, as well as the cost of suit.<sup>[11]</sup>

In her complaint, respondent alleges that the signature of her father on the Deed of Absolute Sale was forged. To support this allegation, she claims that she is familiar with the signature of her father, because she was his private secretary during the period of 1972 to 1981, when her father was still the Mayor of San Pascual, Batangas.<sup>[12]</sup> Respondent also presented an expert handwriting witness in the person of Noel Cruz, a National Bureau of Investigation (*NBI*) Document Examiner, who testified that in his opinion, the questioned signatures of Leonardo *vis-à-vis* the sample signatures of the latter submitted by respondent were not written by one and the same person.<sup>[13]</sup> This conclusion was bolstered by respondent's other witness, Teresita Rosales, who testified that she was a tenant of the subject property until July 11, 1990.<sup>[14]</sup> She presented a receipt dated November 24, 1986 of the payment of her monthly rental with the signature of Leonardo, but claimed that it was petitioner who signed the same by forging the signature of Leonardo.<sup>[15]</sup> Further, Teresita Rosales testified that when she requested Leonardo to sign a marriage contract, as mayor of their town, she personally witnessed that it was petitioner who signed the same by forging the signature of Leonardo.<sup>[16]</sup> Petitioner even boasted to her that she has been the one signing documents for Leonardo on account of the latter's failing eyesight.<sup>[17]</sup>

As part of her documentary evidence, respondent offered in evidence Certifications from the Office of the Clerk of Court of Pasay City and City of Manila, to the effect that Atty. Julian Tubig, the alleged notary public who notarized the Deed of Absolute Sale, was not commissioned as notary public of Pasay City at the time that he notarized the Deed of Absolute Sale.<sup>[18]</sup>

On the other hand, petitioner denied that the signatures of Leonardo on the Deed of Absolute Sale were forgeries. To augment her position, petitioner presented an expert witness in the person of Zacarias Semacio, Document Examiner III of the Philippine National Police (*PNP*) at Camp Crame, Quezon City, who testified that there was no forgery upon comparison of the questioned signatures of Leonardo on the Deed of Absolute Sale with the specimens submitted by petitioner.<sup>[19]</sup>

On April 14, 1999, the Regional Trial Court (*RTC*) rendered its Decision<sup>[20]</sup> finding that there was no forgery and declaring the sale of the property as valid; thereby dismissing the Complaint in the following wise:

WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered in favour of the defendants and against the plaintiff. The instant complaint is hereby DISMISSED.

All counterclaims are similarly dismissed for lack of merit.

SO ORDERED.<sup>[21]</sup>

Upon motion for reconsideration at the instance of the respondent, the RTC rendered a Resolution<sup>[22]</sup> dated December 6, 1999, denying the said Motion, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court still finds it prudent to maintain the DISMISSAL of this case and to DENY the claims of plaintiff as well as defendants' counterclaims, as stated in the dispositive portion of [the] Decision dated April 14, 1999. ACCORDINGLY, plaintiff's "Motion for Reconsideration" is hereby DENIED.

SO ORDERED.<sup>[23]</sup>

On the issue of forgery, the trial court reasoned that there was no forgery in the instant case, because no categorical statement or positive declaration was spoken by any witness that he has seen somebody other than Leonardo Mendoza to have signed or threatened, forced or tricked the latter to sign the questioned documents.<sup>[24]</sup> The trial court further found that the sweeping statement of respondent's witness that she has heard petitioner's boasting to have signed other documents for Leonardo due to the latter's failing eyesight does not hold water and has no bearing in the instant case, and cannot, therefore, overcome the positive declaration of petitioner that Leonardo indeed signed the Deed of Absolute Sale on the place and date written therein.<sup>[25]</sup>

As to the validity of the transfer, the RTC took note from the records of the case that two (2) deeds of sale came into being with supposed active participation and intervention of duly commissioned notary public.<sup>[26]</sup> These two (2) instruments were executed by the same parties on the same day and both pertain to one property.<sup>[27]</sup> One is allegedly notarized by a certain Julian Tubig for the City of Pasay (superimposed by word "Manila") and the other was notarized by a certain Juanito Vitangcol for the City of Manila.<sup>[28]</sup> The existence of these two (2) documents is undisputed when petitioner in fact admitted it, but explained that these were done for taxation purposes only.<sup>[29]</sup> It was the document notarized by Julian Tubig that was the basis of the Register of Deeds for Parañaque City to cancel TCT No. 489946 to issue TCT No. 52593 in favor of Eduardo C. Sanchez, and which is now disputed on the basis that Julian Tubig was not commissioned in Pasay City at the time that the Deed of Absolute Sale was allegedly notarized.<sup>[30]</sup> In any case, the RTC ruled that even assuming that the document was not properly notarized, the document has the force of law between the contracting parties and they are expected to abide by their contractual commitments in good faith.<sup>[31]</sup>

Respondent appealed the decision of the trial court to the CA.

On January 25, 2007, the CA rendered a Decision<sup>[32]</sup> reversing the Decision of the RTC, dated April 14, 1999, the dispositive portion of the appellate court's decision reads:

**WHEREFORE**, the Decision dated April 14, 1999 is **SET ASIDE** and **NULLIFIED**. Judgment is hereby rendered:

1. **DECLARING** as **NULL** and **VOID** the Deed of Absolute Sale purportedly executed by Leonardo Mendoza and Serconsision Mendoza in favor of defendant-appellee Eduardo C. Sanchez over a parcel of land, specifically Lot 39, Block 12 of the consolidation and subdivision plan Pcs-04-00250 of Parañaque City.
2. **ORDERING** the Register of Deeds of Parañaque City to cause the **CANCELLATION** of TCT No. 52593 issued in the name of Eduardo C. Sanchez by virtue of the Deed of Absolute Sale and to **REVIVE** TCT No. 48946 in the name of Leonardo Mendoza and Serconsision Mendoza.
3. **DECLARING** the said parcel of land as belonging of the estate of the late Leonardo Mendoza but only with respect to his conjugal share therein; and
4. **ORDERING** defendants-appellees Serconsision Mendoza and Eduardo Sanchez to pay plaintiff-appellant Aurora Mendoza Fermin P30,000.00 as attorney's fees.

**SO ORDERED.**<sup>[33]</sup>

In ruling for respondent, the CA held that a judge must conduct an independent examination of the signature itself in order to arrive at a reasonable conclusion as to its authenticity.<sup>[34]</sup> In the present case, the CA found that the trial court, in upholding the genuineness of Leonardo's signature on the Deed of Absolute Sale did not even conduct its own comparison on the questioned signatures of Leonardo with that of the specimen standard signatures submitted by respondent, as well as those submitted by petitioner.<sup>[35]</sup> After examining the assailed signatures of Leonardo, and comparing them with his accepted standard signatures, the CA concluded that the questioned signatures were forgeries.<sup>[36]</sup> The CA also took note of the questionable circumstances under which the Deed of Absolute Sale was prepared and the actuations of petitioner after its execution in arriving at the foregoing conclusions.<sup>[37]</sup>

Petitioner filed her Motion for Reconsideration, but the same was denied by the CA in its Resolution<sup>[38]</sup> dated March 28, 2007.

Hence, this petition.

Petitioner invokes the following grounds to support its petition:

THE COURT OF APPEALS GRAVELY ERRED IN SETTING ASIDE THE FINDINGS OF FACT OF THE TRIAL COURT AS TO THE AUTHENTICITY AND DUE EXECUTION OF THE QUESTIONED DEED OF SALE; AND

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN REVERSING THE TRIAL COURT'S FINDINGS THAT THE DEED OF SALE WAS VALID.<sup>[39]</sup>

The petition is bereft of merit.

The rule is that the jurisdiction of the Court over appealed cases from the CA is limited to the review and revision of errors of law allegedly committed by the appellate court, as its findings of fact are deemed conclusive.<sup>[40]</sup> Thus, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below.<sup>[41]</sup> However, this rule admits exceptions, such as when the findings of fact of the CA are contrary to the findings and conclusions of the trial court<sup>[42]</sup> such as in the case at bar.

With regard to the issue on forgery, the general rule is, the same cannot be presumed and must be proved by clear, positive and convincing evidence; the burden of proof of which lies on the party alleging forgery.<sup>[43]</sup> The best evidence of a forged signature in the instrument is the instrument itself reflecting the alleged forged signature.<sup>[44]</sup> The fact of forgery can only be established by comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized upon to have been forged.<sup>[45]</sup>

In supporting her argument that the signature on the assailed Deed of Absolute Sale was forged, respondent presented an expert handwriting witness, Noel Cruz, who testified that the questioned signatures of Leonardo vis-à-vis the sample signatures of the latter submitted by respondent were not written by one and the same person.<sup>[46]</sup> This conclusion was bolstered by respondent's other witness, Teresita Rosales, who testified that when she requested Leonardo to sign a marriage contract, as mayor of their town, she personally witnessed that it was petitioner who signed the same by forging the signature of Leonardo.<sup>[47]</sup> According to Rosales, petitioner even boasted to her that she has been the one signing documents for Leonardo on account of the latter's failing eyesight.<sup>[48]</sup>

The foregoing, however, was disregarded by the RTC on the ground that such general observations could not overcome the positive declaration of petitioner that Leonardo indeed signed the questioned documents on the place and date written. With this, the RTC maintained that there was no forgery and upheld the validity of the Deed of Absolute Sale.

Upon an assiduous examination of the records of this case, we find basis to sustain the reversal of the CA, upon its independent examination of the assailed signatures, and hereby adopt its observations thereon, to wit:

We, however, after examining the supposed signatures of Leonardo and comparing them with his accepted standard, conclude that the questioned signatures were forgeries. A scrutiny of the comparison charts of the NBI handwriting expert witness and the PNP handwriting expert witness, consisting of the enlarged photographs of the questioned signatures of Leonardo and the specimen signatures submitted by the