

## FIRST DIVISION

[ G.R. No. 179323, November 28, 2011 ]

**VICENTE MANZANO, JR., PETITIONER, VS. MARCELINO GARCIA,  
RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

This is a Petition for Review on *Certiorari* seeking the reversal of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 55408 dated September 26, 2006 and its Resolution<sup>[2]</sup> dated August 9, 2007, denying the Motion for Reconsideration.

This case involves a parcel of land covered by Transfer Certificate of Title (TCT) No. T-25464, issued in the name of respondent Marcelino D. Garcia (Garcia). The subject parcel of land has an area of six thousand nine hundred fifty-one (6,951) square meters and is located in Balonguis, Balulang, Cagayan de Oro City.<sup>[3]</sup>

The above property was the subject of a deed of *pacto de retro* sale dated May 26, 1992 allegedly executed by Garcia in favor of Constancio Manzano, the predecessor-in-interest and brother of petitioner Vicente Manzano, Jr. (Vicente) for the amount of eighty thousand five hundred pesos (P80,500.00). Under said contract, Garcia purportedly reserved the right to repurchase the subject property for the same price within three months from the date of the instrument.<sup>[4]</sup>

On July 12, 1992, Constancio Manzano passed away. His properties, including the subject of this case, were adjudicated to his heirs by virtue of a deed of extrajudicial partition with special power of attorney executed by them. Vicente was named the administrator of the intestate estate of Constancio Manzano.<sup>[5]</sup>

Garcia did not redeem the subject property within the three-month period. Consequently, Vicente instituted a **petition for consolidation of ownership over the property**,<sup>[6]</sup> docketed as **Civil Case No. 93-610**. Garcia filed an opposition and answer, alleging that the document evidencing the *pacto de retro* sale was a forgery. He claimed that he and his wife were in the United States of America (USA) from June 1, 1988 to November 14, 1992, and therefore could not have possibly executed the said *pacto de retro* sale on May 26, 1992.<sup>[7]</sup>

On February 15, 1994, Garcia filed a **complaint for annulment of *pacto de retro* sale and recovery of the owner's title with preliminary injunction** against Vicente. The case was docketed as **Civil Case No. 94-097**. In his complaint, Garcia reiterated that he and his wife never participated in the execution of the alleged deed of *pacto de retro* sale dated May 26, 1992 and that in fact, they were still in possession of the said property. He further alleged that he came to know the existence of said document only when the counsel of Vicente sent him a letter on

January 18, 1993 demanding that he should repurchase the property pursuant to the purported terms of the *pacto de retro* sale within fifteen days from receipt of said letter. Upon further inquiry, he discovered that a certain Mr. P. Pacot had executed the questioned document by misrepresenting himself as "Marcelino G. Garcia" (bearing the wrong middle initial) who resided in Casinglot, Misamis Oriental, as evidenced by the Residence Certificate used in the acknowledgement page of the *pacto de retro* sale.<sup>[8]</sup>

Vicente's petition for consolidation of ownership over the property (Civil Case No. 93-610) and Garcia's action for annulment of *pacto de retro* sale and recovery of the owner's title with preliminary injunction (Civil Case No. 94-097) were consolidated before the trial court.<sup>[9]</sup>

During the trial, Vicente presented TCT No. T-25464 and Tax Declaration No. 41672 to prove the due execution of the *pacto de retro* sale, which was recorded in the office of the Register of Deeds of Cagayan de Oro City.

On the other hand, Garcia testified that he went to the USA on November 7, 1987. A few months later, he returned to the Philippines. He went back to the USA on June 1, 1988. His three children were left in the Philippines, while the titles to his properties were left in the office of his business establishment in Tablon, Cagayan de Oro City with two of their children. Garcia testified that the signatures appearing in the *pacto de retro* sale were not his and his wife's. He presented his passport and driver's license, both of which bear an entirely different signature than what appeared in the *pacto de retro* sale document.<sup>[10]</sup>

Atty. Demosthenes Mediante, Jr. (Atty. Mediante), the person who notarized the deed of conveyance in question, testified that the Marcelino Garcia who appeared in his office and who executed the *pacto de retro* sale is not the same Marcelino Garcia who was in court during the trial of the case.<sup>[11]</sup>

Perla Babano, one of the witnesses to the execution of the *pacto de retro* sale, likewise testified that the person who introduced himself as Marcelino G. Garcia and signed the document on May 26, 1992 is not the same Marcelino Garcia who was in court during the trial of the case.<sup>[12]</sup>

On August 30, 1996, the trial court rendered its Decision on the consolidated cases in favor of Vicente, disposing of the same as follows:

WHEREFORE, in view of the foregoing, Civil Case No. 94-097, is hereby dismissed and declaring the Deed of Pacto de Retro Sale legal and valid, and granting the prayer of petitioner in Civil Case No. 93-610 to consolidate ownership of the land in favor of Vicente Manzano, Jr. representing the heirs of Constancio Manzano, namely: Felix, Andrea, Maxima, Ramon and Marciana, all surnamed Manzano, for all legal purposes. No costs.<sup>[13]</sup>

The trial court held that Garcia failed to prove that his signature in the *pacto de retro* sale was forged. According to the court, Garcia should have presented an

expert witness to determine whether the signatures were made by the same person. The trial court doubted the testimonies of Atty. Mediante (the notary public) and Babano (one of the witnesses to the *pacto de retro* sale). The court noted the admission of Atty. Mediante that he notarizes around 25 to 30 documents per month and could not describe or remember all the persons appearing before him for notarization. The court was likewise intrigued by the testimony of Atty. Mediante that he had seen the alleged impostor Marcelino Garcia sitting at the Cagayan de Oro Divisoria for two weeks. As regards Babano, the trial court found it unnatural for an impersonator to show her, a stranger, documents such as the title to the subject property. Also, the trial court found the low price paid for the property insignificant considering that the vendor had the right to repurchase the property within three months from the sale.

Garcia sought recourse with the Court of Appeals. The appeal was docketed as CA-G.R. CV No. 55408 and was raffled to the Court of Appeals' twenty-third division in Cagayan de Oro City. On September 26, 2006, the appellate court rendered the assailed decision reversing that of the trial court. The dispositive portion of the decision read:

**FOR THE REASONS STATED**, We **REVERSE** and **SET ASIDE** the assailed decision of the Regional Trial Court. In its place, judgment is hereby rendered declaring the *pacto de retro* sale executed on May 26, 1992, **VOID AB INITIO** and dismissing Civil Case No. 93-610.

Furthermore, Appellee Vicente Manzano, Jr., is ordered to **RETURN** the owner's duplicate copy of TCT No. T-25464 to Appellant Marcelino D. Garcia. Entry No. 164181 annotated at the back of the said title is hereby ordered cancelled.<sup>[14]</sup>

According to the Court of Appeals, there is no rule requiring expert testimony to determine the genuineness of a signature appearing on a document. Since it was plainly obvious from the evidence on record that the signature appearing on the *pacto de retro* sale is far different from the customary signature of Garcia that appeared in his passport and driver's license, the testimony of Garcia that the signature was not his is sufficient evidence of the forgery pursuant to Section 50, Rule 130<sup>[15]</sup> of the Rules of Court. The Court of Appeals added that on the basis of Atty. Mediante's testimony, the presumption of regularity in the execution of the public document has been sufficiently destroyed and overcome. The Court of Appeals concluded that the *pacto de retro* sale is void *ab initio* pursuant to Article 1409 in relation to Article 1505 of the Civil Code.

Hence, Vicente is now before this Court with the following assignment of errors:

- I. THAT THE COURT OF APPEALS ERRED WHEN IT DECLARED THAT RESPONDENT AND HIS WIFE BEING IN THE UNITED STATES, COULD HAVE NOT EXECUTED THE DEED OF PACTO DE RETRO SALE.

II. THAT THE COURT OF APPEALS ERRED WHEN IT DECLARED, THAT WHEN THE QUESTIONED SIGNATURES APPEAR OBVIOUSLY FAR DIFFERENT FROM THE CUSTOMARY OR STANDARD SIGNATURES OF THE PERSON CLAIMING FORGERY, THERE IS NO NEED OF A HANDWRITING EXPERT TO DETERMINE WHICH DOCUMENT IS FORGED.

III. THAT THE COURT OF APPEALS ERRED IN HASTILY CONSIDERING THAT RESPONDENT PROVED BY CLEAR, POSITIVE AND CONVINCING EVIDENCE THE FORGERY OF HIS SIGNATURE AND OF HIS WIFE, ON THE GROUND OF THEIR NON-PARTICIPATION IN THE EXECUTION OF THE DEED OF PACTO DE RETRO SALE AND OF THE VARIANCE OF THE STROKES OF THE SIGNATURES THEREON WHEN COMPARED TO THE STROKES APPEARING IN THEIR GENUINE, CUSTOMARY AND STANDARD SIGNATURES FOUND IN OTHER DOCUMENTS.<sup>[16]</sup>

From an assiduous examination of the records of the case, it is plainly apparent to this Court that the alleged signature of Garcia in the *pacto de retro* sale is utterly dissimilar from his customary signature appearing in the evidence on record, as well as in the verifications of the pleadings before this Court and the courts *a quo*. From this circumstance alone, we are constrained to affirm the ruling of the Court of Appeals finding that the *pacto de retro* sale was forged and, therefore, void *ab initio*.

In assailing the finding of the Court of Appeals that the signature of Garcia in the *pacto de retro* sale was forged, Vicente echoes the opinion of the trial court that Garcia should have presented an expert witness to prove the same. Jurisprudence, however, is replete with instances wherein this Court dispensed with the testimony of expert witnesses to prove forgeries. Thus, in *Estacio v. Jaranilla*,<sup>[17]</sup> we held:

It bears stressing that the trial court may validly determine forgery from its own independent examination of the documentary evidence at hand. This the trial court judge can do without necessarily resorting to experts, especially when the question involved is mere handwriting similarity or dissimilarity, which can be determined by a visual comparison of specimen of the questioned signatures with those of the currently existing ones. Section 22 of Rule 132 of the Rules of Court explicitly authorizes the court, by itself, to make a comparison of the disputed handwriting "with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge."<sup>[18]</sup>

Similarly, in the fairly recent case of *Pontaoe v. Pontaoe*,<sup>[19]</sup> this Court held:

As to the argument that handwriting experts should have been employed, handwriting experts are usually helpful in the examination of forged documents because of the technical procedure involved in analyzing them, but resort to these experts is not mandatory or

indispensable to the examination or the comparison of handwritings. A finding of forgery does not depend entirely on the testimonies of handwriting experts, because the judge must conduct an examination of the questioned signature in order to arrive at a reasonable conclusion as to its authenticity. The opinions of handwriting experts are not binding upon courts, especially when the question involved is mere handwriting similarity or dissimilarity, which can be determined by a visual comparison of specimens of the questioned signatures with those of the currently existing ones. Moreover, Section 22 of Rule 132 of the Rules of Court likewise explicitly authorizes the court, by itself, to make a comparison of the disputed handwriting "with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge."<sup>[20]</sup>

Insisting on the need to present an expert witness, Vicente points out our ruling in *Rivera v. Turiano*,<sup>[21]</sup> wherein we declared:

While it is true that the testimonies of handwriting experts are not necessary, however, pursuant to the criteria enunciated in *Ladignon*, the private respondent must not only show material differences between or among the signatures. In addition, (1) he must demonstrate the extent, kind, and significance of the variation; (2) he must prove that the variation is due to the operation of a different personality and not merely an expected and inevitable variation found in the genuine writing of the same writer; and (3) he must show that the resemblance is a result of a more or less skillful imitation and not merely a habitual and characteristic resemblance which naturally appears in a genuine writing.<sup>[22]</sup>

In the case at bar, however, the variance in the alleged signature of Garcia in the *pacto de retro* sale, on one hand, and in the evidence on record and in the verifications of the pleadings before this Court and the courts *a quo*, on the other hand, was enormous and obvious, such that this Court can readily conclude that the *pacto de retro* sale was in all likelihood made by someone who has not even seen the customary signature of Garcia.

Furthermore, the falsity of the signature on the *pacto de retro* sale was affirmed by two persons present when the instrument was signed, one of which is the very person who notarized the same. An examination of their testimonies reveals that the trial court had disregarded their statements for very flimsy reasons.

The trial court was unconvinced by the testimony of the notary public Atty. Mediante on account of his admission that he could not describe or remember all the persons appearing before him for notarization and his statement that he had seen the alleged impostor Marcelino Garcia sitting at the Cagayan de Oro Divisoria for two weeks. The trial court found it incredulous that Atty. Mediante could have been observing the whereabouts of the alleged impostor for two weeks.<sup>[23]</sup> These circumstances, however, were clearly explained by Atty. Mediante, who testified that two weeks prior to the signing of the document, he had been approached by the impostor Marcelino Garcia who was asking for help to secure a loan of P200,000.00