

SECOND DIVISION

[G.R. No. 172167, July 09, 2008]

SOLEDAD E. DIZON, CORAZON R. ESPINOSA, CYNTHIA R. ESPINOSA, JENNIFER R. ESPINOSA, JULIE R. ESPINOSA, GELACIO R. ESPINOSA, JR., AND JOSELITO R. ESPINOSA, PETITIONERS, VS. RODRIGO G. TUAZON AND ESTRELLA M. TUAZON, RESPONDENTS.

D E C I S I O N

TINGA, J.:

This is a Petition for Review^[1] of the Decision^[2] and Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 79523 dated 26 January 2006 and 31 March 2006, respectively, which reversed and set aside the Decision^[4] of the Regional Trial Court of Tarlac City, Branch 63 dated 19 May 2003.

The facts of the case, as culled from the decisions of the lower courts, follow.

Petitioners are the heirs of Segundo Espinosa (Segundo), owner of one-half undivided share^[5] in two parcels of land individually covered by OCT No. 0-279^[6] and TCT No. 38284^[7] and both situated in Brgy. Tibag, Tarlac, Tarlac. When Segundo was widowed, he cohabited with one Laureana Bondoc and sired Estrella Tuazon (Estrella), one of the respondents in this case.

In 1988, petitioner Soledad Dizon (Soledad), daughter of Segundo, discussed with her brother the transfer of the properties in their name. They informed Segundo of their plan and the latter agreed. However, Segundo told them that the titles of the properties were in the name of the spouses Estrella and respondent Rodrigo Tuazon (Rodrigo). Soledad inquired from respondents and was told that they had already bought the subject property.

Soledad went to the Register of Deeds and was able to secure copies of the Deed of Absolute Sale and Affidavit of Non-tenancy allegedly executed by Segundo in favor of respondents. In 1990, respondents also allegedly prepared an Agreement of Subdivision and made it appear therein that Segundo had signed and executed the same. When Segundo was shown the documents, he claimed that he was fooled by respondents to enter into the transaction and that his signature had been forged. He met with a certain Atty. Conrado Genilo, the lawyer who notarized the documents, and was informed that he had merely notarized the said documents prepared by his secretary. Atty. Genito also told Segundo that he was willing to testify in his favor.

The parties brought the matter to the barangay for conciliation but no settlement was reached. Hence, Segundo prepared and signed a complaint for annulment of the Deed of Absolute Sale, the Affidavit of Non-tenancy and the Agreement of

Subdivision. However, the complaint was not filed in court because Segundo fell ill and Soledad was then working abroad. Segundo died on 16 October 1995.

Petitioners filed a complaint for declaration of nullity of sale and damages against respondents on 16 November 1995. They claimed that respondents fraudulently prepared the three documents, namely, the Deed of Absolute Sale dated 30 August 1985,^[8] the Affidavit of Non-tenancy dated 30 August 1985^[9] and the Agreement of Subdivision dated 21 February 1990,^[10] in all of which respondents made it appear that Segundo had signed, executed and acknowledged the said documents before a notary public.

Respondents claimed that when Segundo's mortgage obligation to Philippine National Bank (PNB)^[11] fell due, he sought financial assistance from respondents in order to avert the foreclosure of the mortgage. They obliged and made several payments on the mortgage debt. In return, Segundo promised to transfer to respondent Estrella his share in the mortgaged properties, which he fulfilled when he freely delivered to her and her husband the Deed of Absolute Sale and Affidavit of Non-tenancy in 1985. Respondents also alleged that in 1990, Segundo executed the Agreement of Subdivision to effect the actual conveyance of title to the properties subject of the sale.^[12]

The trial court rendered its judgment on 19 May 2003, holding that the signatures appearing in the documents were not Segundo's and granting the reliefs prayed for in the complaint. It declared as null and void the Deed of Absolute Sale, the Affidavit of Non-tenancy, and the Agreement of Subdivision, and accordingly ordered the cancellation of the titles to the properties in respondents' names and the restoration of the former titles. It also ordered petitioners to pay the litigation expenses and attorney's fees.^[13]

Respondents appealed the decision to the Court of Appeals, which in turn reversed the decision of the trial court.^[14] According to the Court of Appeals, petitioners were unable to establish the charge of forgery by a preponderance of evidence.

Before us, petitioners contend that the Court of Appeals erred when it reversed the judgment of the trial court. They claim that it disregarded the evaluation made by the trial court and instead gave credence to the testimonies of the witnesses who testified that they saw Segundo sign the questioned deed.^[15] Moreover, the appellate court allegedly failed to consider petitioners' evidence proving the charge of falsification, to wit: (1) the NBI report which stated that the signatures "S. Espinosa" and "Segundo Espinosa" were written by two different persons; (2) the combined testimony of petitioner Soledad and Theodore Espinosa (Theodore), Segundo's grandson, that the signature of Segundo was falsified; (3) the memorandum of the proceedings before the Office of the Barangay Lupon of Tibag, Tarlac which established the fact that Segundo had already questioned the genuineness of his signature as early as 27 September 1989; and (4) the fact that despite the alleged sale, the tenants on the land continued paying rentals to them.^[16] Petitioners also claim that the Court of Appeals misconstrued respondents' possession of the PNB receipts as proof of their having purchased the property for valuable consideration, because they gained access to the said receipts only after Segundo and the mother of Estrella had started to live together.^[17] For the same

reason, according to petitioners, respondents gained access to the owner's copies of TCT No. 38284 and OCT No. 0-279 and thus, it could not be said that Segundo had voluntarily given the documents to them.^[18]

For their part, respondents claim that petitioners gave a constricted statement of the matters involved since they relied completely and only on the findings of the trial court.^[19] They defend the decision of the Court of Appeals, noting that the latter has made a thorough evaluation and analysis of the documentary evidence and the testimonies of the witnesses.^[20]

The determination of whether Segundo's signature was forged is a question of fact which calls for a review of the evidence presented by the parties. While such determination is usually not within the Court's domain, we will delve into factual issues in this case due to the conflicting findings of the Court of Appeals and of the trial court.^[21]

In ruling that Segundo's signature in the subject documents is a forgery, the trial court based its conclusion on the NBI Report^[22] which stated that the abbreviated signature in the Agreement of Subdivision and the standard sample signatures of Segundo were not affixed by one and the same person; hence, the document is falsified.^[23] Anent the Deed of Sale and the Affidavit of Non-tenancy, the trial court concluded that the signatures therein could not have been Segundo's because Segundo always affixed his signature by writing his full name and surname.^[24] It also gave credence to the testimonies of Soledad, Theodore and the other witnesses who identified the genuine signatures of Segundo.^[25] It noted that the only iota of evidence presented by petitioners was a piece of mimeographed paper with a handwritten name "S. Espinosa," which the trial court found to be not Segundo's signature but rather of the clerk who made the entry.^[26] In addition, the trial court noted that as early as 27 September 1989, Segundo had already questioned the supposed sale of the property to respondents and hence, he could not have agreed to sign and execute the Agreement of Subdivision dated 21 February 1990.^[27]

On the contrary, the Court of Appeals ruled that petitioners were unable to establish their claim by preponderance of evidence, save for their assertion that the signature of Segundo was falsified because it was not the latter's usual signature. Even the NBI report stated that no definite opinion of falsification/forgery could be rendered on the questioned signatures appearing in the Deed of Absolute Sale since the sample signatures could not serve as sufficient basis for a scientific comparative examination. The appellate court noted that while petitioners claim that the abbreviated signature of Segundo was forged, they nevertheless could not explain the appearance of the full signature of Segundo in the second page of the document. Thus, the Court of Appeals concluded that if Segundo had signed the second page, it follows that he likewise signed the first page except that he signed it in abbreviated form.^[28]

The Court of Appeals also gave credence to the testimonies of Marino Tabaquero (Tabaquero), the secretary of the notary public who personally witnessed Segundo affix his signature, and respondent Rodrigo, the buyer of the subject property who

was likewise present when Segundo signed the documents.^[29] It took into consideration respondents' possession of the original PNB receipts, proof that they were the ones who secured the release of the mortgage and which, in turn, is evidence of the valuable consideration for which the Deed of Sale was executed.^[30] The appellate court also noted that in July 1986, the sale was inscribed at the back of the title of the subject property which proves that the owner's copy of the certificates of title was surrendered and presented to the Register of Deeds; thus, as of 1986, Segundo already had constructive notice of the alleged falsification/forgery but did not take the necessary legal steps to annul the deed.^[31] Finally, the appellate court held that petitioners failed to overcome the legal presumption of authenticity and due execution of the Deed of Absolute Sale, it being a notarized document.^[32]

The petition must be denied.

As notarized documents, the Deed of Absolute Sale, the Affidavit of Non-tenancy, and the Agreement of Subdivision carry evidentiary weight conferred upon them with respect to their due execution and enjoy the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity. Absent such evidence, the presumption must be upheld. The burden of proof to overcome the presumption of due execution of a notarized document lies on the one contesting the same.^[33]

To recapitulate, petitioners rely on the following evidence in support of their case: (i) the NBI Report which concluded that the "S. Espinosa" in the Agreement of Subdivision and the "Segundo Espinosa" in the sample signatures were not written by one and the same person; (ii) the combined testimony of Soledad and Theodore, who both claimed familiarity with Segundo's signature, that the signatures appearing in the questioned documents were affixed by Segundo; (iii) the memorandum of the *barangay lupon* proceedings captioned "*Isang Paglilipat Pansin* (Endorsement)" dated 27 September 1989 relative to the questioned Deed of Absolute Sale;^[34] and (iv) the fact that the rent payments on the land purportedly sold to respondents were being paid to petitioners despite the alleged sale.

However, these pieces of evidence, these are not enough to overcome the presumption of regularity in the execution and validity of the questioned deeds. Hence, we are inclined to agree with the findings of the Court of Appeals.

In the first place, the court is not bound by the findings of a handwriting expert. Expert opinion evidence is to be considered or weighed by the court like any other testimony, in the light of its own general knowledge and experience upon the subject of inquiry.^[35] The probative force of the testimony of an expert does not lie in a mere statement of his theory or opinion, but rather in the aid that he can render to the courts in showing the facts which serve as a basis for his criterion and the reasons upon which the logic of his conclusion is founded.^[36] The handwriting expert gave only a definitive conclusion as to Segundo's signature in the Agreement of Subdivision, and not in the Affidavit of Non-tenancy or more importantly in the Deed of Absolute Sale.^[37] An accurate examination to determine forgery should dwell on both the differences and similarities between the questioned signatures.^[38] Obviously, the abbreviated signature is different from the full