

THIRD DIVISION

[G.R. NO. 125283, February 10, 2006]

**PAN PACIFIC INDUSTRIAL SALES CO., INC., PETITIONER, VS.
COURT OF APPEALS AND NICOLAS CAPISTRANO, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Petitioner Pan Pacific Industrial Sales Co., Inc. (Pan Pacific) filed the instant Petition for Review on Certiorari^[1] assailing the Decision^[2] dated 4 June 1996 of the Court of Appeals Fourteenth Division in C.A. G.R. No. CV-41112. The challenged Decision affirmed *in toto* the Decision^[3] dated 24 April 1992 of the Regional Trial Court (RTC) of Manila, Branch 18 in Civil Case No. 88-46720.

The case arose when on 22 December 1988, private respondent Nicolas Capistrano (Capistrano) filed an Amended Complaint^[4] before the RTC of Manila against Severo C. Cruz III (Cruz), his spouse Lourdes Yap Miranda, and Atty. Alicia Guanzon,^[5] pleading two causes of action.^[6]

The first cause of action is for the nullification, or alternatively, for the "rescission," of a Deed of Absolute Sale^[7] covering a parcel of land that Capistrano owned, located at 1821 (Int.), Otis Street (now Paz Guanzon Street), Paco, Manila, and covered by Transfer Certificate of Title (TCT) No. 143599 to Cruz.^[8] This is the subject lot. Capistrano denied having executed the deed.

The second cause of action is for the rescission of another agreement with an alternative prayer for specific performance. Capistrano alleged that he agreed to sell another parcel of land in the same vicinity to Cruz. According to Capistrano, Cruz only paid P100,000.00 of the stipulated purchase price, thereby leaving P250,000.00 still unpaid.^[9]

The operative facts follow.

On 10 September 1982, Capistrano executed a Special Power of Attorney^[10] authorizing Cruz to mortgage the subject lot in favor of Associated Bank (the Bank) as security for the latter's loan accommodation. ^[11]

Shortly, by virtue of the Special Power of Attorney, Cruz obtained a loan in the amount of P500,000.00 from the Bank. Thus, he executed a Real Estate Mortgage^[12] over the subject lot in favor of the Bank.^[13]

Capistrano and Cruz then executed a letter-agreement dated 23 September 1982 whereby Cruz agreed to buy the subject lot for the price of P350,000.00, of which

P200,000.00 would be paid out of the loan secured by Cruz, and the balance of P150,000.00 in eight (8) quarterly payments of P18,750.00 within two (2) years from 30 October 1982, without need of demand and with interest at 18% in case of default.^[14]

On 15 March 1983, Capistrano executed the Deed of Absolute Sale^[15] over the subject lot in favor of Cruz. Two (2) days later, on 17 March 1983, Notary Public Vicente J. Benedicto (Benedicto) notarized the deed. However, it was earlier or on 9 March 1983 that Capistrano's wife, Josefa Borromeo Capistrano, signed the Marital Consent^[16] evidencing her conformity in advance to the sale. The Marital Consent was also sworn to before Benedicto.

Following the execution of the deed of sale, Cruz continued payments to Capistrano for the subject lot. Sometime in October 1985, Capistrano delivered to Cruz a Statement of Account^[17] signed by Capistrano, showing that as of 30 October 1985, Cruz's balance stood at P19,561.00 as principal, and P3,520.98 as interest, or a total of P23,081.98.

Thus, in May 1987, with the mortgage on the subject lot then being in danger of foreclosure by the Bank, Cruz filed a case with the RTC of Manila, Branch 11, docketed as Civil Case No. 87-40647, to enjoin the foreclosure. Cruz impleaded Capistrano and his spouse Josefa Borromeo Capistrano as defendants, the title to the subject lot not having been transferred yet to his name.^[18]

Cruz also devised a way to save the subject lot from foreclosure by seeking a buyer for it and eventually arranging for the buyer to pay the mortgage debt. Towards this end, Cruz succeeded in engaging Pan Pacific. Thus, on 22 September 1988, Pan Pacific paid off Cruz's debt in the amount of P1,180,000.00.^[19] Consequently, on 23 September 1988, the Bank executed a Cancellation of Real Estate Mortgage.^[20] On even date, Cruz executed a Deed of Absolute Sale^[21] over the subject lot in favor of Pan Pacific, attaching thereto the previous Deed of Absolute Sale executed by Capistrano in favor of Cruz.

Surprisingly, on 20 October 1988, Capistrano filed a Revocation of Special Power of Attorney^[22] with the Register of Deeds of Manila. Less than a week later, Capistrano sent the Register of Deeds another letter informing said officer of his having come to know of the sale of the subject lot by Cruz to Pan Pacific and requesting the officer to withhold any action on the transaction.^[23]

Before long, in November 1988, Capistrano filed the precursory complaint before the Manila RTC in Civil Case No. 88-46720.

Pan Pacific, which bought the subject lot from the Cruz spouses, was allowed to intervene in the proceedings and joined Cruz, *et al.* in resisting the complaint insofar as the first cause of action on the subject lot is concerned.^[24]

Then on 24 April 1992, a Decision was rendered by the trial court in favor of Capistrano on both causes of action, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant, Severo E. (sic) Cruz III, his spouse, Lourdes Miranda Cruz, and the intervenor, Pan Pacific Industrial Sales Co., Inc., as follows:

1. Declaring the Letter-Agreement, dated September 23, 1982, Exhibit "C", as resolved and/or rescinded;
2. Declaring both the Deed of Absolute Sale, Exhibit "H", and the document entitled, "Marital Consent", Exhibit "K", null and void;
3. Declaring the Deed of Absolute Sale executed by the spouses Severo C. Cruz, III and Lourdes Miranda Cruz in favor of the intervenor, Pan Pacific Industrial Sales, Co., Inc., Exhibit "8", null and void;
4. Making the writ of preliminary injunction issued by this Court on November 23, 1988, permanent;
5. Ordering the intervenor, thru its legal counsel and corporate secretary, Atty. Senen S. Burgos, who has possession of the owner's copy of TCT No. 143599 of the Register of Deeds of Manila, in the name of the plaintiff, to surrender the same to this Court within ten days from finality of the decision for turn over to the plaintiff;
6. Ordering Defendant Register of Deeds of Manila to reject and not give due course to the documents submitted to it, which have for their purpose the transfer of the real estate property covered by TCT No. 143599 from the name of the plaintiff to Defendant Cruz and/or to the intervenor; and
7. Ordering the spouses Severo C. Cruz, III and Lourdes Miranda Cruz to pay the plaintiff the sum of P69,561.00 as net amount due to the latter as per the computation in the end-part of this decision.

The counterclaims of both Severo C. Cruz, III and spouse, and of the intervenor, Pan Pacific Industrial Sales Co., Inc., are both dismissed, for lack of merit.

Double costs against the defendants-Cruz spouses.

SO ORDERED.^[25]

To arrive at the conclusion that the first Deed of Absolute Sale and the Marital Consent are spurious, the trial court mainly relied on Capistrano's disavowal of his signature and that of his wife's, together with extrinsic factors which in its opinion evinced the spuriousness.

Pan Pacific and the Cruz spouses interposed separate appeals to the Court of Appeals, their common concern being the trial court's finding that the Deed of Absolute Sale and the Marital Consent were spurious.^[26]

In assailing this finding, Pan Pacific and the Cruz spouses contended that Capistrano failed to present clear and convincing evidence to overturn the presumption of regularity of public documents like the documents in question.^[27]

The Court of Appeals affirmed the RTC Decision. Concerning the subject lot, it held that while a notarial document cannot be disproved by the mere denial of the signer, the denial in this case should be taken together with the other circumstances of the case which in sum constitute clear and convincing evidence sufficient to overcome the presumption of regularity of the documents.^[28]

The Cruz spouses did not elevate the Court of Appeals' Decision to this Court. Thus, the RTC Decision became final as to them.

Pan Pacific, however, filed the instant Petition solely concerning the first cause of action in the Amended Complaint. Pan Pacific contends that the genuineness and due execution of the Deed of Absolute Sale and Marital Consent cannot be overridden by the self-serving testimony of Capistrano. It stresses that the trial court cannot rely on irrelevant extrinsic factors to rule against the genuineness of the deed.^[29] Finally, it points out that Capistrano cannot contest the sale of the subject lot to Cruz, as the sale had already been consummated.^[30]

For his part, Capistrano posits in his Memorandum^[31] that Pan Pacific is not an innocent purchaser for value and in good faith as Cruz was never the registered owner of the subject lot. Pan Pacific was bound at its peril to investigate the right of Cruz to transfer the property to it. Moreover, Capistrano asserts that the legal presumption of regularity of public documents does not obtain in this case as the documents in question were not properly notarized. He adds that the parties never appeared before the notary public as in fact the deed had only been delivered by Capistrano to the house of Cruz's mother.

Furthermore, Capistrano maintains that his spouse's signature on the Marital Consent is a forgery as it was virtually impossible for her to have signed the same. Lastly, Capistrano disputes Cruz's assertion that the sale had been consummated, pointing out that the Amended Complaint consisted of two (2) causes of action pertaining to two (2) separate lots, and Cruz had only paid P100,000.00 of the total price of the lot subject of the second cause of action.

The petition is imbued with merit.

Pan Pacific disputes the common conclusion reached by the courts below that the presumption of regularity of the Deed of Absolute Sale and the Marital Consent, which in its estimation are both public documents, has been rebutted by Capistrano's countervailing evidence. The correctness of the conclusions on the alleged spuriousness of the documents in question drawn by the courts below from the facts on record is before this Court. The issue is a question of law cognizable by the Court.^[32]

Deeply embedded in our jurisprudence is the rule that notarial documents celebrated with all the legal requisites under the safeguard of a notarial certificate is evidence of a high character and to overcome its recitals, it is incumbent upon the party challenging it to prove his claim with clear, convincing and more than merely

preponderant evidence.^[33]

A notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and it has in its favor the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to the falsity of the certificate. Absent such, the presumption must be upheld. The burden of proof to overcome the presumption of due execution of a notarial document lies on the one contesting the same. Furthermore, an allegation of forgery must be proved by clear and convincing evidence, and whoever alleges it has the burden of proving the same.^[34]

Evidently, as he impugns the genuineness of the documents, Capistrano has the burden of making out a clear-cut case that the documents are bogus. The courts below both concluded that Capistrano had discharged this burden. However, this Court does not share the conclusion. Indeed, Capistrano failed to present evidence of the forgery that is enough to overcome the presumption of authenticity.

To support the allegation of the spuriousness of his signature on the Deed of Absolute Sale and that of his wife on the Marital Consent, Capistrano relied heavily on his bare denial, at the same time taking sanctuary behind other circumstances which supposedly cast doubt on the authenticity of the documents. Capistrano did not bother to present corroborating witnesses much less an independent expert witness who could declare with authority and objectivity that the challenged signatures are forged. It befuddles the Court why both the courts below did not find this irregular considering that the Court has previously declared in *Sy Tiangco v. Pablo and Apao*,^[35] "that the execution of a document that has been ratified before a notary public cannot be disproved by the mere denial of the alleged signer."

The case of *Chilianchin v. Coquinco*^[36] also finds application in this regard wherein we stated that:

As the lower court correctly said, the plaintiff did not even present a sample of his authentic signature to support his contention that it is not his the (sic) signature appearing in said document. He did not call a handwriting expert to prove his assertion. His attorney, at the beginning of the trial, made it of record that if the defendant present an expert in hand-writing to show that the signature in question is genuine, the plaintiff will also present an expert to the contrary, as if it were incumbent upon the defendant to show that the signature of the plaintiff in Exhibit A is genuine^[37]

Corollarily, he who disavows the authenticity of his signature on a public document bears the responsibility to present evidence to that effect. Mere disclaimer is not sufficient. At the very least, he should present corroborating witnesses to prove his assertion. At best, he should present an expert witness.

On the other hand, the Court cannot understand why an unfavorable inference arose not from Capistrano's but from Cruz's failure to have the documents examined by an expert witness of the National Bureau Investigation (NBI) and to present the notary public as witness. Specifically, the courts below took Cruz's inability to obtain the NBI examination of the documents as he had somehow undertaken as an indication