

## THIRD DIVISION

[ G.R. No. 127745, April 22, 2003 ]

**FELICITO G. SANSON, CELEDONIA SANSON-SAQUIN, ANGELES A. MONTINOLA, EDUARDO A. MONTINOLA, JR., PETITIONERS-APPELLANTS, VS. HONORABLE COURT OF APPEALS, FOURTH DIVISION AND MELECIA T. SY, AS ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE LATE JUAN BON FING SY, RESPONDENTS-APPELLEES.**

### DECISION

**CARPIO MORALES, J.:**

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Court of Appeals Decision of May 31, 1996 and Resolution of December 9, 1996.

On February 7, 1990, herein petitioner-appellant Felicito G. Sanson (Sanson), in his capacity as creditor, filed before the Regional Trial Court (RTC) of Iloilo City a petition, docketed as Special Proceedings No. 4497, for the settlement of the estate of Juan Bon Fing Sy (the deceased) who died on January 10, 1990. Sanson claimed that the deceased was indebted to him in the amount of P603,000.00 and to his sister Celedonia Sanson-Saquin (Celedonia) in the amount of P360,000.00.<sup>[1]</sup>

Petitioners-appellants Eduardo Montinola, Jr. and his mother Angeles Montinola (Angeles) later filed separate claims against the estate, alleging that the deceased owed them P50,000.00 and P150,000.00, respectively.<sup>[2]</sup>

By Order of February 12, 1991, Branch 28 of the Iloilo RTC to which the petition was raffled, appointed Melecia T. Sy, surviving spouse of the deceased, as administratrix of his estate, following which she was issued letters of administration.<sup>[3]</sup>

During the hearing of the claims against the estate, Sanson, Celedonia, and Jade Montinola, wife of claimant Eduardo Montinola, Jr., testified on the transactions that gave rise thereto, over the objection of the administratrix who invoked Section 23, Rule 130 of the Revised Rules of Court otherwise known as the Dead Man's Statute which reads:

*SEC. 23. Disqualification by reason of death or insanity of adverse party.*

—Parties or assignors of parties to a case, or persons in whose behalf a case is prosecuted, against an executor or administrator or other representative of a deceased person, or against a person of unsound mind, upon a claim or demand against the estate of such deceased person or against such person of unsound mind, **cannot testify** as to any matter of fact occurring before the death of such deceased person or before such person became of unsound mind. (Emphasis supplied)

Sanson, in support of the claim of his sister Celedonia, testified that she had a transaction with the deceased which is evidenced by six checks<sup>[4]</sup> issued by him before his death; before the deceased died, Celedonia tried to enforce settlement of the checks from his (the deceased's) son Jerry who told her that his father would settle them once he got well but he never did; and after the death of the deceased, Celedonia presented the checks to the bank for payment but were dishonored<sup>[5]</sup> due to the closure of his account.<sup>[6]</sup>

Celedonia, in support of the claim of her brother Sanson, testified that she knew that the deceased issued five checks<sup>[7]</sup> to Sanson in settlement of a debt; and after the death of the deceased, Sanson presented the checks to the bank for payment but were returned due to the closure of his account.<sup>[8]</sup>

Jade, in support of the claims of her husband Eduardo Montinola, Jr. and mother-in-law Angeles, testified that on separate occasions, the deceased borrowed P50,000 and P150,000 from her husband and mother-in-law, respectively, as shown by three checks issued by the deceased,<sup>[9]</sup> two to Angeles and the other<sup>[10]</sup> to Eduardo Montinola, Jr.; before the deceased died or sometime in August 1989, they advised him that they would be depositing the checks, but he told them not to as he would pay them cash, but he never did; and after the deceased died on January 10, 1990, they deposited the checks but were dishonored as the account against which they were drawn was closed,<sup>[11]</sup> hence, their legal counsel sent a demand letter<sup>[12]</sup> dated February 6, 1990 addressed to the deceased's heirs Melicia, James, Mini and Jerry Sy, and Symmels I & II but the checks have remained unsettled.<sup>[13]</sup>

The administratrix, denying having any knowledge or information sufficient to form a belief as to the truth of the claims, nevertheless alleged that if they ever existed, they had been paid and extinguished, are usurious and illegal and are, in any event, barred by prescription.<sup>[14]</sup> And she objected to the admission of the checks and check return slips-exhibits offered in evidence by the claimants upon the ground that the witnesses who testified thereon are disqualified under the Dead Man's Statute.

Specifically with respect to the checks-exhibits identified by Jade, the administratrix asserted that they are inadmissible because Jade is the daughter-in-law of claimant Angeles and wife of claimant Eduardo Montinola, Jr., hence, she is covered by the above-said rule on disqualification.

At all events, the administratrix denied that the checks-exhibits were issued by the deceased and that the return slips were issued by the depository/clearing bank.<sup>[15]</sup>

After the claimants rested their case, the administratrix filed four separate manifestations informing the trial court that she was dispensing with the presentation of evidence against their claims.<sup>[16]</sup>

Finding that the Dead Man's Statute does not apply to the witnesses who testified in support of the subject claims against the estate, the trial court issued an Order of December 8, 1993,<sup>[17]</sup> the dispositive portion of which reads:

WHEREFORE, Judicial Administratrix Melecia T. Sy, is hereby ordered, to pay, in due course of administration, creditors-claimants Felicito G. Sanson, in the amount of P603,500.00; Celedonia S. Saquin, in the amount of P315,000.00;<sup>[18]</sup> Angeles A. Montinola, in the amount of P150,000.00 and Eduardo Montinola, Jr., in the amount of P50,000.00, from the assets and/or properties of the above-entitled intestate estate.

On appeal by the administratrix upon the following assignment of errors:

I.

THE LOWER COURT ERRED IN NOT DISMISSING THE CLAIM[S] FOR FAILURE TO PAY THE FILING FEES THEREON

II.

THE LOWER COURT ERRED IN NOT DISMISSING THE CLAIM[S] BECAUSE [THEY ARE] ALREADY BARRED BY THE LAW OF LIMITATIONS OR STATUTE OF NON-CLAIMS

III.

THE LOWER COURT ERRED IN NOT HOLDING THAT CLAIMANT[S'] EVIDENCE OF THE CLAIM IS INCOMPETENT UNDER THE DEAD MAN'S STATUTE, AND INADMISSIBLE

IV.

THE ALLEGED CHECKS ARE INADMISSIBLE AS PRIVATE DOCUMENTS,<sup>[19]</sup>

the Court of Appeals set aside the December 8, 1993 Order of the trial court, by Decision of May 31, 1996, disposing as follows:

WHEREFORE, the order appealed from is hereby set aside and another order is entered dismissing the claims of:

1. Felicito G. Sanson, in the amount of P603,500.00;
2. Celdonia S. Saquin, in the amount of P315,000.00;<sup>[20]</sup>
3. Angeles A. Montinola, in the amount of P150,000.00; and
4. Eduardo Montinola, Jr., in the amount of P50,000.00 against the estate of the deceased JUAN BON FING SY.

No pronouncement as to costs.

SO ORDERED. (Underscoring supplied)

The claimants' Motion for Reconsideration<sup>[21]</sup> of the Court of Appeals decision having been denied by Resolution of December 9, 1996,<sup>[22]</sup> they filed the present petition anchored on the following assigned errors:

FIRST ASSIGNED ERROR

RESPONDENT COURT OF APPEALS, 4<sup>TH</sup> DIVISION, ERRED IN FINDING

THAT THE TESTIMONY OF JADE MONTINOLA IS INSUFFICIENT TO PROVE THE CLAIMS OF CLAIMANTS ANGELES A. MONTINOLA AND EDUARDO A. MONTINOLA, JR..

SECOND ASSIGNED ERROR

RESPONDENT COURT OF APPEALS, 4<sup>TH</sup> DIVISION, ERRED IN FINDING THAT CLAIMANT FELICITO G. SANSON IS DISQUALIFIED TO TESTIFY [ON] THE CLAIM OF CELEDONIA SANSON-SA[Q]UIN AND VI[C]E VERSA. (Underscoring in the original)<sup>[23]</sup>

With respect to the first assigned error, petitioners argue that since the administratrix did not deny the testimony of Jade nor present any evidence to controvert it, and neither did she deny the execution and genuineness of the checks issued by the deceased (as well as the check return slips issued by the clearing bank), it was error for the Court of Appeals to find the evidence of the Montinolas insufficient to prove their claims.

The administratrix counters that the due execution and authenticity of the checks-exhibits of the Montinolas were not duly proven since Jade did not categorically state that she saw the filling up and signing of the checks by the deceased, hence, her testimony is self-serving; besides, as Jade had identical and unitary interest with her husband and mother-in-law, her testimony was a circumvention of the Dead Man's Statute.<sup>[24]</sup>

The administratrix's counter-argument does not lie. Relationship to a party has never been recognized as an adverse factor in determining either the credibility of the witness or—subject only to well recognized exceptions none of which is here present—the admissibility of the testimony. At most, closeness of relationship to a party, or bias, may indicate the need for a little more caution in the assessment of a witness' testimony but is not necessarily a negative element which should be taken as diminishing the credit otherwise accorded to it.<sup>[25]</sup>

Jade's testimony on the genuineness of the deceased's signature on the checks-exhibits of the Montinolas is clear:

x x x

Q: Showing to you this check dated July 16, 1989, Far East Bank and Trust Company Check No. 84262, in the amount of P100,000.00, is this the check you are referring to?

A: Yes, sir.

Q: There appears a signature in the face of the check. Whose signature is this?

A: That is the signature of Mr. Sy.

Q: **Why do you know that this is the signature of Mr. Sy?**

A: Because he signed this check I was . . . **I was present when he signed this check.**

x x x

Q: Showing to you this check dated September 8, 1989, is this the check you are referring to?

A: Yes, sir.

**Q: Why do you know that this is his signature?**

**A: I was there when he signed the same.**

x x x

Q: Showing to you this Far East Bank and Trust Company Check No. 84262 dated July 6, 1989, in the amount of P50,000.00, in the name of Eduardo Montinola, are you referring to this check?

A: Yes, sir.

Q: Whose signature is this appearing on the face of this check?

A: Mr. Sy's signature.

**Q: Why do you know that it is his signature?**

**A: I was there when he signed the same.**

x x x<sup>[26]</sup> (Emphasis supplied)

The genuineness of the deceased's signature having been shown, he is *prima facie* presumed to have become a party to the check for value, following Section 24 of the Negotiable Instruments Law which reads:

Section 24. Presumption of Consideration. - **Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.** (Underscoring and italics in the original; emphasis supplied),

Since, with respect to the checks issued to the Montinolas, the *prima facie* presumption was not rebutted or contradicted by the administratrix who expressly manifested that she was dispensing with the presentation of evidence against their claims, it has become conclusive.

As for the administratrix's invocation of the Dead Man's Statute, the same does not