

THIRD DIVISION

[G. R. No. 143256, August 28, 2001]

**RODOLFO FERNANDEZ AND MERCEDES CARANTO FERNANDEZ,
HUSBAND AND WIFE, EDDIE C. FERNANDEZ AND LUZ
FERNANDEZ, SPOUSES, PETITIONERS, VS. ROMEO FERNANDEZ,
POTENCIANO FERNANDEZ, FRANCISCO FERNANDEZ, JULITA
FERNANDEZ, WILLIAM FERNANDEZ, MARY FERNANDEZ,
ALEJANDRO FERNANDEZ, GERARDO FERNANDEZ, RODOLFO
FERNANDEZ AND GREGORIO FERNANDEZ, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

Before Us is a petition for review on *certiorari* assailing the decision^[1] of the respondent Court of Appeals dated December 22, 1999 affirming the decision^[2] of the Regional Trial Court Branch 40, Dagupan City in an action for nullity of contracts, partition, recovery of possession and damages in favor of plaintiffs-appellees, herein respondents.

The facts as found by the respondent Court of Appeals, are as follows:^[3]

"The late Spouses Dr. Jose K. Fernandez, and Generosa A. de Venecia were the registered owners of a parcel of land located at Dagupan City covered by TCT No. T-9267 (525) consisting of 194 sq. meters, and the two-storey building constructed thereon covered by Tax Declaration 22-592-1. It is undisputed that Generosa gave birth to a baby boy named Rogelio who died when he was only twelve (12) years old as paralytic. In the testimony of Romeo Fernandez (TSN, Aug. 31, 1994, pp. 9-14) it was revealed that the late Spouses being childless by the death of their son, purchased from a certain Miliang for P20.00 a one (1) month baby boy. The boy being referred to was later on identified as Rodolfo Fernandez, the herein appellant. Appellant was taken care of by the couple and was sent to school and became a dental technician. He lived with the couple until they became old and disabled.

On July 20, 1982, Jose K. Fernandez died thereby leaving his wife Generosa A. de Venecia and Rodolfo Fernandez and an estate consisting of the following:

(a) "A parcel of land (Lot 9132, before Lot No. 444-C, of the Cadastral Survey of Dagupan, Cadastral Case No. 41, G.L.R.O. Cadastral Record No. 925), situated in the Barrio of Pantal, City of Dagupan. Bounded on the NE. by Lot No. 447; on the

SE. by Lot No. 9134; on the SW. by the Arellano Street; and on the NW. by Lot No. 9131. Containing an area of One Hundred Ninety Four (194) square meters, more or less. Covered by Transfer Certificate of Title No. 525 (T-9267) Pangasinan Registry of Deeds."

(b) "A two (2) storey residential building made of concrete and wood, G.I. roofing with a floor area of 154 square meters and 126 square meters of the first and second floor, respectively. Declared under Tax Decl. No. 22-592-1 and assessed therein at P26,000.00."

On August 31, 1989, appellant and Generosa de Venecia executed a Deed of Extra-judicial Partition dividing and allocating to themselves the following:

To: Generosa de Venecia Vda. De Fernandez

(a) 119.5 sq. m. located on the southwestern portion of the land;

(b) Whole residential house above-mentioned;

To: Rodolfo V. Fernandez

74.5 square meters to be taken on the northeastern portion of the land.

On the same day, Generosa de Venecia executed a Deed of Absolute Sale in favor of Eddie Fernandez, appellant's son over the following:

"A portion of One Hundred Nineteen and One-Half (119.5) Square meters including the building and/or all existing thereon to be taken from the southwestern portion of the parcel of land described as follows, to wit:

`A parcel of land (Lot No. 9132, before Lot No. 444-C, of the Cadastral Survey of Dagupan, Cadastral Case No. 41, G.L.R.O. Cadastral Record No. 925), situated in the Barrio of Pantal, City of Dagupan. Bounded on the NE. by Lot No. 447; on the SE by Lot No. 9134; on the SW. by the Arellano Street; and on the NW. by Lot No. 9131. Containing an area of One Hundred and Ninety-Four (194), Square Meters, more or less, covered by TRANSFER CERTIFICATE OF TITLE NO. 525 (T-9267) - Pangasinan Registry of Deeds" (Exh. "8", Exhibits for the Defendants)

After learning the transaction, Romeo, Potenciano, Francisco, Julita, William, Mary, Alejandro, Gerardo, Rodolfo and Gregorio, all surnamed Fernandez, being nephews and nieces of the deceased Jose K. Fernandez, their father Genaro being a brother of Jose, filed on September 21, 1994, an action to declare the Extra-Judicial Partition of Estate and Deed of Sale void ab initio (docketed as Civil Case No. 94-00016-D).

The complaint alleged that defendants (herein appellants), motivated by unmitigated greed, deliberate and malicious acts of depriving the plaintiff and other heirs (herein appellees) of the deceased spouses, without basis of heirship or any iota of rights to succession or inheritance, taking advantage of the total physical and mental incapacity of the deceased Generosa de Venecia aggravated by unlawful scheme confederated, colluded and conspired with each other in causing the fake, simulated grossly inauthentic contracts purporting to be executed on August 31, 1989 and jointly on the same date, caused the execution of the deed of absolute sale purportedly signed by Generosa de Venecia covering the same property described in the deed of extra-judicial partition and by virtue of the said acts, appellants were able to secure new land titles in their favor (Records, pp. 3-4, Complaint). Appellees thus prayed that the Deed of Extra-judicial Partition, Deed of Absolute Sale and Transfer Certificate of Title No. 54641 be declared void from the beginning.

Significantly, in their answer, defendants alleged:

"16. That the deceased Sps. Jose K. Fernandez and Generosa were husband and wife blessed with one child the herein defendant Rodolfo V. Fernandez whom they acknowledged during their lifetime. (underscoring supplied)

18. That the Deed of Extrajudicial Partition and Deed of Absolute Sale executed by the late Generosa de Venecia and defendant Rodolfo V. Fernandez which are now in question were all made with the full knowledge, consent and approval of the parties thereto and for value." (Records, pp. 20-21, Answer)."

On May 10, 1996, the Regional Trial Court rendered a decision in favor of the plaintiffs, the dispositive portion reads:^[4]

"WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against the defendants;

1. Declaring the Deed of Extra-Judicial Partition dated August 31, 1989 (Exh. "3"), the Deed of Absolute Sale dated August 31, 1989 (Exh. "8"), the TCT No. 54641, and the TCT No. 54693 null and void;
2. Ordering the defendants to reconvey to, and to peacefully surrender to the plaintiffs the possession of the house and lot in question;

3. Ordering the defendants, jointly and severally to pay to plaintiffs the following:

- (a) P50,000.00 as compensatory damages;
- (b) P100,000.00 as moral damages;
- (c) P20,000.00 as attorney's fees; and
- (d) P2,000.00 as litigation costs.

SO ORDERED."

In so ruling, the trial court found that defendant Rodolfo Fernandez was not a legitimate nor a legally adopted child of spouses Dr. Jose Fernandez and Generosa de Venecia Fernandez, hence Rodolfo could not inherit from the spouses. Rodolfo's claim as a son of the deceased spouses Fernandez was negated by the fact that (1) he only reached high school and was told to stop studying so that he could help in the clinic of Dr. Fernandez, (2) he failed to present any birth certificate, (3) the book entitled Fercolla clan which was compiled and edited by respected people such as Ambassador Armando Fernandez, Justice Jorge Coquia and Teresita Coquia-Sison, showed the genealogy of the family of Dr. Jose and Generosa Fernandez without a child; a pedigree may be admitted in evidence to prove the facts of genealogy and that entries in a family bible or other family books or charts, engravings or rings, family portraits and the like, may be received as evidence of pedigree,^[5] (4) the certification issued by the Records Management and Archives Office that there was no available information about the birth of petitioner Rodolfo to the spouses Fernandez, (5) the application of Dr. Jose Fernandez for backpay certificate naming petitioner Rodolfo as his son was doubtful considering that there were blemishes or alteration in the original copy; (6) that Rodolfo's baptismal certificate was spurious and falsified since there were no available records of baptism with the parish from June 7, 1930 to August 8, 1936, while Rodolfo's baptismal certificate which was issued in 1989 showed that he was baptized on November 24, 1934. The court found that the extra-judicial partition and the deed of absolute sale were prepared and executed under abnormal, unusual and irregular circumstances which rendered the documents null and void.

Defendants Rodolfo Fernandez et. al appealed to the respondent Court of Appeals which affirmed the trial court's judgment in its assailed decision dated December 22, 1999.

In resolving the appeal, the respondent court delved into the legitimacy of defendant-appellant Rodolfo Fernandez' filiation with the deceased spouses. It found that appellants' evidence which consisted of a certificate of baptism stating that he was a child of the spouses Fernandez and the application for recognition of rights to back pay under RA 897 filed by Dr. Jose Fernandez, wherein the latter referred to Rodolfo as his son, did not acquire evidentiary weight to prove his filiation. The appellate court concluded that while baptismal certificates may be considered public documents, they were evidence only to prove the administration of the sacraments on the dates therein specified, but not the veracity of the statements or declarations

made therein with respect to his kinsfolk; that while the application for back pay was a public document, it was not executed to admit the filiation of Jose K. Fernandez with Rodolfo V. Fernandez, the herein appellant; that the public document contemplated in Article 172 of the Family Code referred to the written admission of filiation embodied in a public document purposely executed as an admission of filiation and not as obtaining in this case wherein the public document was executed as an application for the recognition of rights to back pay under Republic Act No. 897. Appellants Rodolfo Fernandez et al filed their motion for reconsideration which was denied in a resolution dated May 17, 2000.^[6]

Rodolfo Fernandez et al filed the instant petition for review with the following issues:

I

THE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF THE TRIAL COURT ORDERING THE DEFENDANTS, PETITIONERS HEREIN, TO RECONVEY TO, AND PEACEFULLY SURRENDER TO THE PLAINTIFFS, RESPONDENTS HEREIN, THE POSSESSION OF THE HOUSE AND LOT IN QUESTION BECAUSE THE SAID ORDER IS PALPABLY CONTRARY TO THE ADMITTED FACTS THE LAW AND JURISPRUDENCE, FOR THE FOLLOWING REASONS:

(a) THE HOUSE AND LOT IN QUESTION ARE ADMITTED BY THE PARTIES TO BE CONJUGAL PROPERTIES OF THE SPOUSES DR. JOSE K. FERNANDEZ AND GENEROSA DE VENECIA, AND

(b) RESPONDENTS, WHO ARE NOT RELATED TO GENEROSA DE VENECIA BY CONSANGUINITY, ARE NOT HER INTESTATE HEIRS AND CANNOT SUCCEED AB INTESTATO TO HER INTESTATE ESTATE.

II

THE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF THE TRIAL COURT DECLARING (1) THE DEED OF EXTRA-JUDICIAL PARTITION DATED AUGUST 31, 1989 (EXH. `3'), THE DEED OF ABSOLUTE SALE ALSO DATED AUGUST 31, 1989 (EXH. `8'), TCT NO. 54641, AND TCT NO. 54693 NULL AND VOID FOR THE FOLLOWING REASONS:

(a) IT HAS NO FACTUAL BASIS DULY ESTABLISHED BY THE EVIDENCE ON RECORD, AND

(b) RESPONDENTS, NOT BEING PARTIES TO THE QUESTIONED DEEDS, HAVE NO PERSONALITY TO CONTEST THE VALIDITY OF SAID DOCUMENTS.

III

THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL