

FIRST DIVISION

[G.R. No. 115508, February 15, 2000]

**ALEJANDRO AGASEN AND FORTUNATA CALONGE-AGASEN,
PETITIONERS, VS. THE HON. COURT OF APPEALS AND PETRA
BILOG, ASSISTED BY HER HUSBAND FELIPE BILOG,
RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

On April 7, 1980, private respondent Petra Bilog, assisted by her husband Felipe Bilog, filed a complaint for Recovery of Possession and Ownership^[1] with the Regional Trial Court of Agoo, La Union, involving an Eight Thousand Four Hundred Seventy Four (8,474) square meter parcel of land registered in her name under Transfer Certificate of Title No. T-16109 of the Registry of Deeds of La Union. She alleged that sometime in 1964 or 1965, petitioners took possession and assumed ownership of the said property, appropriating the fruits therefrom. She alleged that despite demands on them to vacate the land, petitioners refused to do so and even filed a case for Annulment of TCT and/or Reconveyance with Damages before the same court, which case was, however, dismissed on February 12, 1980. Thus, in her complaint, private respondent prayed that she be declared the true and absolute owner of the subject land and petitioners be ordered to turn over possession thereof to her. Additionally, private respondent prayed for P300,000.00 as attorney's fees, P2,000.00 as expenses of litigation as well as P60,000.00 representing the value of the land's produce from 1965 to the time of the filing of the case and P4,000.00 annually until the case is terminated.

In their Answer,^[2] petitioners Alejandro Agasen and Fortunata Calonge-Agasen asserted that the subject land used to form part of Lot No. 2192, a forty two thousand three hundred seventy two (42,372) square meter parcel of land owned in common by the five (5) Bilog siblings, private respondent Petra Bilog being one of them. Petitioners claimed that they became the owners of the portion of the subject land which belonged to private respondent as her share therein, by virtue of: (1) the sale in their favor of 1,785 square meters thereof by Leonora Calonge, sister of Fortunata Calonge-Agasen, and (2) the sale in their favor by private respondent of the remaining 6,717.50 square meters on June 24, 1968, by virtue of a notarized Partition with Sale. Petitioners also affirmed that they had been in possession of the subject land since the time of the above-mentioned sale transactions, with a house of strong materials built thereon. By way of counterclaim, petitioners charged private respondent with having fraudulently caused title to the subject land to be issued in her name, following the subdivision of the original land between her and her co-heirs/owners, in violation of their (petitioners') rights over the subject land. Thus, petitioners prayed for the annulment of title in private respondent's name and for the dismissal of the complaint, as well as for the award of P10,000.00 as exemplary damages, P25,000.00 as moral damages, P5,000.00 as litigation

expenses and P7,000.00 as attorney's fees and costs.

On November 19, 1984, the Regional Trial Court of Agoo, La Union, Branch 3, rendered judgment in favor of petitioners, dismissing the complaint and declaring Transfer Certificate of Title No. 16109 in the name of private respondent null and void.^[3]

On appeal, the Court of Appeals reversed the decision of the lower court and private respondent was declared the true and absolute owner of the subject land.^[4] Accordingly, petitioners were ordered to turn over the subject land to private respondent.

With the denial of petitioners' Motion for Reconsideration on May 20, 1994,^[5] the instant Petition was filed, anchored upon the following grounds—

- I. THE DECISION (ANNEX A) ERRED IN DECLARING THE DEED OF PARTITION WITH SALE (EXH. 1) AND THE DEED OF ABSOLUTE SALE (EXH. 2) NOT AUTHENTIC AND VALID;
- II. THE DECISION ERRED IN HOLDING THAT DEFENDANTS FAILED TO SUBSTANTIATE THEIR CLAIM OF OWNERSHIP AND IN GIVING MORE CREDENCE TO PLAINTIFF'S TESTIMONIAL EVIDENCE AND TAX DECLARATION NO. 21460 (EXH. B) AND CERTIFICATION OF TAX PAYMENTS (EXH. C);
- III. THE DECISION ERRED IN FINDING/HOLDING THAT THE NON-REGISTRATION OF THE DEED OF PARTITION WITH SALE AND THE DEED OF ABSOLUTE SALE WITH THE REGISTER OF DEEDS MADE THE PURCHASES THEREUNDER "DENTED" AND DID NOT AUTOMATICALLY VEST TITLE OR OWNERSHIP OVER THE SUBJECT PROPERTY TO THE BUYERS;
- IV. THE DECISION ERRED IN HOLDING THAT THE DAILY NOTEBOOK (EXH. 3) CONTAINING THE MEMORANDUM OF INSTALLMENT SALE BY LEONORA CALONGE TO DEFENDANT-APPELLEE FORTUNATA AGASEN (EXH. 3-a TO 3-c) OVER THE PARCEL OF LAND DESCRIBED IN EXH. 2 WAS NOT A VALID OR CREDIBLE DOCUMENT OF TRANSFER;
- V. THE DECISION GRAVELY ERRED IN HOLDING THAT TCT NO. 16109 (EXH. A) CANNOT BE COLLATERALLY ATTACKED ON THE GROUND THAT IT IS BARRED BY THE RULE ON INDEFEASIBILITY OF A TORRENS TITLE AFTER THE LAPSE OF ONE YEAR FROM THE DECREE OF REGISTRATION.^[6]

Although the instant case is a petition for review under Rule 45 which, as a general rule, is limited to reviewing errors of law, findings of fact being conclusive as a matter of general principle, however, considering the conflict between the factual findings of the trial court and the respondent Court of Appeals, there is a need to review the factual issues as an exception to the general rule.^[7]

As correctly stated by the lower court, the crucial question in the instant controversy is whether or not the two (2) documents, relied upon by petitioners as basis for their claim of ownership, are valid. Overthrowing the lower court's finding of validity, the Court of Appeals ruled that private respondent's testimonial and documentary evidence "junked" petitioners' documents (Exhibits "1" and "2").

We disagree.

To begin with, it is not denied that the two subject documents are notarized documents and, as such, are considered public documents which enjoy the presumption of validity as to authenticity and due execution.^[8] One of the documents, the Deed of Absolute Sale, was identified by Assistant Provincial Fiscal Maximo Quero, the administering officer who had notarized it. The legal presumption of validity of petitioners' duly notarized public documents has not been overcome by preponderant evidence by private respondent, upon whom the burden of proof rests, having alleged the contrary.^[9]

The subject documents were also attached by petitioners to their Answer where they were alleged as part of the counterclaim. As such, private respondent should have specifically denied under oath their genuineness and due execution.^[10] After all, a counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff. It stands on the same footing and is to be tested by the same rules as if it were an independent action.^[11] Having failed to specifically deny under oath the genuineness and due execution of the said documents, private respondent is deemed to have admitted the same.

And while private respondent denied having signed any document selling the subject parcels of land, the trial court found her signature on the subject documents to be genuine, after a comparison thereof with her own documentary evidence on record (Exh. "B"). Indeed, it has been held that where a comparison is permissible, it may be made by the court, with or without the aid of expert witnesses;^[12] and evidence respecting handwriting may be given by a comparison made by the court with writings admitted or treated as genuine by the party against whom the evidence is offered.^[13] In the case at bar, the lower court compared private respondent's signatures on the subject documents with that appearing on her own evidence (Exh. "B") and found the same identical.

The following circumstances all indicate the genuineness and due execution of the subject documents: (1) The subject documents were duly notarized public documents; (2) The documents enjoy the legal presumption of validity; (3) Their genuineness and due execution were not specifically denied under oath by private respondent; (4) Private respondent's signature thereon were found genuine by the lower court upon a comparison of her signature thereon with that in her own documentary evidence; (5) The actual identification and positive testimony of petitioner; and (6) The testimony of the lawyer who had notarized one of the subject documents. Private respondent's bare denial of the same cannot, by any measure, overcome the above-mentioned evidence and legal presumptions in petitioners' favor.

As for the sale in petitioners' favor by the original vendee thereof, Leonora Calonge, the Court of Appeals accepted private respondent's charges that there was no valid