

THIRD DIVISION

[G.R. No. 75908, October 22, 1999]

**FEDERICO O. BORROMEO, LOURDES O. BORROMEO AND
FEDERICO O. BORROMEO, INC, PETITIONERS VS. AMANCIO SUN
AND THE COURT OF APPEALS, RESPONDENTS.**

D E C I S I O N

PURISIMA, J.:

At bar is a Petition for review on Certiorari under Rule 45 of the Revised Rules of Court seeking to set aside the Resolution of the then Intermediate Appellate Court^[1], dated March 13, 1986, in AC-G.R. CV NO. 67988, which reversed its earlier Decision dated February 12, 1985, setting aside the Decision of the former Court of the First Instance of Rizal, Branch X, in Civil Case No. 19466.

The antecedent facts are as follows:

Private respondent Amancio Sun brought before the then Court of the First Instance of Rizal, Branch X, an action against Lourdes O. Borrromeo (in her capacity as corporate secretary), Federico O. Borrromeo and Federico O. Borrromeo (F.O.B.), Inc., to compel the transfer to his name in the books of F.O.B., Inc., 23,223 shares of stock registered in the name of Federico O. Borrromeo, as evidenced by a Deed of Assignment dated January 16, 1974.

Private respondent averred^[2] that all the shares of stock of F.O.B. Inc. registered in the name of Federico O. Borrromeo belong to him, as the said shares were placed in the name of Federico O. Borrromeo 'only to give the latter personality and importance in the business world.'^[3] According to the private respondent, on January 16, 1974 Federico O. Borrromeo executed in his favor a Deed of Assignment with respect to the said 23,223 shares of stock.

On the other hand, petitioner Federico O. Borrromeo disclaimed any participation in the execution of the Deed of Assignment, theorizing that his supposed signature thereon was forged.

After trial, the lower court of origin came out with a decision declaring the questioned signature on subject Deed of Assignment, dated January 16, 1974, as the genuine signature of Federico O. Borrromeo; ratiocinating thus:

'After considering the testimonies of the two expert witnesses for the parties and after a careful and judicious study and analysis of the questioned signature as compared to the standard signatures, the Court is not in a position to declare that the questioned signature in Exh. A is a forgery. On the other hand, the Court is of the opinion that the questioned signature is the real signature of Federico O. Borrromeo between the years 1954 to 1957 but definitely is not his signature in

1974 for by then he has changed his signature. Consequently, to the mind of the Court Exhibit A was signed by defendant Federico O. Borromeo between the years 1954 to 1957 although the words in the blank were filled at a much later date.^[4]

On appeal by petitioners, the Court of Appeals adjudged as forgery the controverted signature of Federico O. Borromeo; disposing as follows:

'WHEREFORE, the judgment of the Court a quo as to the second cause of action dated March 12, 1980 is hereby reversed and set aside and a new judgment is hereby rendered:

1. Ordering the dismissal of the complaint as to defendant-appellants;

2. Ordering plaintiff-appellee on appellants' counterclaim to pay the latter:

a) P 20,000.00 as moral damages;

b) P 10,000.00 as exemplary damages;

c) P 10,000.00 as attorney's fees.

3. Ordering plaintiff-appellee to pay the costs.^[5]

On March 29, 1985, Amancio Sun interposed a motion for reconsideration of the said decision, contending that Segundo Tabayoyong, petitioners' expert witness, is not a credible witness as found and concluded in the following disposition by this Court in Cesar vs. Sandigan Bayan^[6] :

"The testimony of Mr. Segundo Tabayoyong on March 5, 1980, part of which is cited on pages 19-23 of the petition, shows admissions which are summarized by the petitioner as follows:

'He never finished any degree in Criminology. Neither did he obtain any degree in physics or chemistry. He was a mere trainee in the NBI laboratory. He said he had gone abroad only once-to Argentina which, according to him 'is the only one country in the world that gives this degree (?) ... 'People go there where they obtain this sort of degree (?) where they are authorized to practice (sic) examination of questioned documents.'

'His civil service eligibility was second grade (general clerical). His present position had to be 're-classified' 'confidential' in order to qualify him to it. He never passed any Board Examination.

'He has never authored any book on the subject on which he claimed to be an 'expert.' Well, he did 'write' a so-called pamphlet pretentiously called 'Fundamentals of Questioned Documents Examination and Forgery Detection.' In that pamphlet, he mentioned some references' – (some) are Americans and one I think is a British, sir, like in the case of Dr. Wilson Harrison, a British' (he repeated with emphasis). Many of the 'theories' contained in his pamphlet were lifted body and soul from those references, one of them being Albert Osborn. His pamphlet has neither quotations nor footnotes, although he was too aware of the crime committed by many an author called 'plagiarism.' But that did not deter him, nor bother him in the least.

'He has never been a member of any professional organization of experts in his supposed field of expertise, because he said there is none locally. Neither is he on an international level.'^[7]

Acting on the aforesaid motion for reconsideration, the Court of Appeals reconsidered its decision of February 12, 1985 aforementioned. Thereafter, the parties agreed to have subject Deed of Assignment examined by the Philippine Constabulary (PC) Crime Laboratory, which submitted a Report on January 9, 1986, the pertinent portion of which, stated:

'1. Comparative examination and analysis of the questioned and the standard signature reveal significant similarities in the freedom of movement, good quality of lines, skills and individual handwriting characteristics.

2. By process of interpolation the questioned signature fits in and can be bracketed in time with the standard signatures written in the years between 1956 to 1959. Microscopic examination of the ink used in the questioned signature and the standard signature in document dated 30 July 1959 marked Exh. 'E' indicate gallotanic ink.'

x x x

'1. The questioned signature FEDERICO O. BORROMEO marked 'Q' appearing in the original Deed of Assignment dated 16 January 1974 and the submitted standard signatures of Federico O. Borrromeo marked 'S-1' to 'S-49' inclusive were written BY ONE AND THE SAME PERSON.

2. The questioned signature FEDERICO O. BORROMEO marked 'Q' COULD HAVE BEEN SIGNED IN THE YEARS BETWEEN 1950-1957.'^[8]

After hearing the arguments the lawyers of record advanced on the said "Report" of the PC Crime Laboratory, the Court of Appeals resolved:

" x x x

1) to ADMIT the Report dated Jan. 9, 1986 of the PC Crime Laboratory on the Deed of Assignment in evidence, without prejudice to the parties' assailing the credibility of said Report;

2) to GIVE both parties a non-extendible period of FIVE (5) DAYS from February 27, 1986, within which to file simultaneous memoranda.'^[9]

On March 13, 1986, the Court of Appeals reversed its decision of February 12, 1985, which affirmed in toto the decision of the trial court of origin; resolving thus:

"WHEREFORE, finding the Motion for Reconsideration meritorious, We hereby set aside our Decision, dated February 12, 1985 and in its stead a new judgment is hereby rendered affirming in toto the decision of the trial Court, dated March 12, 1980, without pronouncement as to costs.

SO ORDERED."^[10]