

SECOND DIVISION

[G.R. No. 110207, July 11, 1996]

FLORENTINO REYES, SPOUSES EDUARDO REYES AND ANITA MABABANGLOOB, ENGRACIA REYES, SPOUSES ZACARIAS AND NORMA R. MADRID, SPOUSES ALBERTO AND NORMA N. REYES, SPOUSES TEODORO AND DOLORES S. REYES, PETITIONERS, VS. COURT OF APPEALS (NINTH DIVISION) AND JACINTA REYES, PAULA REYES, AND PETRA REYES, RESPONDENTS.

DECISION

ROMERO, J.:

This is a petition for review on certiorari seeking the reversal of the decision of the Court of Appeals in CA-G.R. CV No. 33028 entitled "Jacinta Reyes, et al. vs. Florentino Reyes, et al"^[1] which affirmed the judgment of the Regional Trial Court of Makati, Branch 58 rendered in favor of private respondents.

The antecedent facts as found by the lower court and adopted by the Court of Appeals are as follows:

On July 29, 1970, a Deed of Extrajudicial Partition and Settlement was allegedly entered into between petitioner Florentino and his sisters (private respondents herein) Jacinta, Paula and Petra, all surnamed Reyes. The subject of the alleged partition was a parcel of land located in Bangkal, Makati measuring Three Hundred Eighty Three (383) Square Meters. Said parcel of land covered by Transfer Certificate of Title No. 22801 was registered in the name of Bernardino Reyes, the father of petitioner and private respondents.

The Deed which allegedly partitioned the subject parcel of land extrajudicially among petitioner and private respondents stated that the latter waived their rights, interest and participation therein in favor of the former. Thereunder, one of the private respondents, Paula Reyes Palmenco was given a share of fifty (50) square meters.

On March 16, 1971, petitioner caused the registration of the alleged Deed of Extrajudicial Partition and Settlement with the Register of Deeds of Rizal. Subsequently, he managed to obtain Transfer Certificate of Title No. 318944 with 333 square meters in his name and 50 square meters in the name of Paula Palmenco.

Sometime in May 1985, private respondents, having discovered the registration of the said Deed denied having knowledge of its execution and disclaimed having signed the same; nor did they ever waive their rights, shares and interest in the subject parcel of land.

Similarly, private respondent Paula Palmenco denied having ever executed said Deed. According to private respondents, subject Deed was fraudulently prepared by petitioner and that their signatures thereon were forged. They also assert that one Atty. Jose Villena, the Notary Public who notarized the said Deed was not even registered in the list of accredited Notaries Public of Pasay City.

Thereafter, petitioner executed a Deed of Absolute Sale selling 240 square meters of the land to his children while retaining 93 square meters for himself. The 50 square meter portion given to Paula Palmenco as originally provided in the Deed remained in her name.

After the property was partitioned, petitioner, his children and private respondent Paula Palmenco allegedly executed a Deed of Co-owners' Partition dividing the property among themselves. Each of the alleged co-owners, namely, petitioner, his children Eduardo, Teodoro, Engracia, Norma and Alberto, as well as Paula Palmenco, allocated for themselves a specific portion of one-seventh (1/7) each.

On May 27, 1985, private respondents filed a Complaint for "Annulment of Sale and Damages With Prayer for Preliminary Injunction/Restraining Order" before the Makati Regional Trial Court against petitioner and the Register of Deeds of Makati. Private respondents Petra Reyes and Paula Palmenco who died on May 23, 1988 and October 20, 1987, respectively, were duly substituted by their respective children. Private respondent Jacinta Reyes and the children of Petra and Paula then filed an amended complaint praying for the annulment of the following: (1) Deed of Extrajudicial Partition and Settlement dated July 29, 1970 and TCT No. 318944 of the Registry of Deeds of Makati, Metro Manila; (2) Deed of Absolute Sale dated May 15, 1979; (3) Deed of Co-owners' Partition dated August 24, 1984 and (4) the seven (7) Transfer Certificates of Titles Nos. 135257, 135258, 135259, 135260, 135261, 135262, and 135263 of the Registry of Deeds of Makati, Metro Manila as null and void.

On June 1, 1985, the lower court issued an order enjoining the Register of Deeds of Makati from issuing and delivering the Transfer Certificates of Title in question to the petitioners and from collecting the monthly rentals due on the subject parcel of land. After trial on the merits, the lower court ruled that the private respondents' signatures on the questioned Deed of Extrajudicial Partition and Settlement were indeed forged and simulated. As a result of such finding, the lower court permanently enjoined the Registry of Deeds of Makati from issuing and delivering TCT Nos. 135257, 135258, 135259, 135260, 135261, 135262, and 135263 to petitioner Florentino and his children, and petitioners from collecting the monthly rentals due on the properties. The lower court also declared the Deed of Extrajudicial Partition and Settlement, Transfer Certificate of Title No. 318944 of the Registry of Deeds of Makati, Deed of Absolute Sale, Deed of Co-owner's Partition, and the seven (7) TCT Nos. 135257 to 135263 of the Registry of Deeds of Makati as null and void.^[2]

On appeal, the Court of Appeals affirmed the decision of the lower court. Hence, this petition. Petitioners assign the following errors:

THE COURT A QUO ERRED IN FINDING THAT THE DEED OF EXTRAJUDICIAL PARTITION AND SETTLEMENT WAS A FORGERY;

II

ASSUMING ARGUENDO THE AFORESAID FORGERY, THE COURT A QUO ERRED NONETHELESS IN NOT FINDING THAT PETITIONER HAS BECOME AN ABSOLUTE OWNER OF THE LAND IN DISPUTE BY VIRTUE OF ACQUISITIVE PRESCRIPTION;

III

IN LIGHT OF AFORESAID ERRORS, THE COURT A QUO ERRED IN NOT DISMISSING THE COMPLAINT AND AWARDING THE RELIEFS PRAYED FOR BY PETITIONERS IN THEIR COUNTERCLAIMS.

The Court of Appeals, in affirming the decision of the lower court, declared that petitioners failed to convincingly overturn the factual findings of the trial court which ruled on the fake and forged character of the document on the following points:

1. The signatures at the bottom page of the Extrajudicial Partition and Settlement appear to have been written by one and the same hand and not by individual signatories thereto except the signature of Rustico Reyes.
2. The acknowledgment in the Extrajudicial Partition and Settlement appears to have been signed by one Jose D. Villena who was never commissioned as Notary Public for and in the province of Rizal on July 31, 1970 in Pasay City.
3. The word "Pasay, Rizal" in handwriting was superimposed on the word "Makati," supposedly the place where the document was notarized.
4. The residence certificates of the parties who allegedly executed the Extrajudicial Partition and Settlement were all issued on July 30, 1970 in Pasay City except that of Encarnacion Reyes and Rustico Reyes when in fact they were residents of Makati, Metro Manila, specifically, at Evangelista Street in Bangkal, less than a kilometer away from the Municipal Hall of Makati, while Pasay City is 10 kilometers away from Bangkal, Makati.^[3]

Aside from the above factual findings of the lower court which the Court of Appeals agreed with, the latter also noted that under the certification of one Pedro P. Rollon, OIC, Record and Notarial Reports of Pasay City, no such Extrajudicial Partition and Settlement subject of this case notarized by a certain Atty. Jose Villena was ever recorded. Nor was Atty. Villena officially appointed as Notary Public for and in Pasay City on the aforesaid date.

Instead, it appears that the original copy of the Deed, as published in the Daily Mirror, was notarized by one Atty. Primo M. Beltran in Pasay City and not in Makati, as shown by the Affidavit of Publication. More importantly, petitioners did not dispute the fact that the alleged residence certificates of private respondents shown to the trial court were in the possession of petitioner Florentino which the Court of