

**SPS. DOMINGO E. DUGAN AND BEATRIZ R. DUGAN,
PLAINTIFFS-APPELLEES, VS. SPS. RENERIO ANINIPOT AND NECITAS
ANINIPOT, DEFENDANTS-APPELLANTS.**

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated October 11, 2013 of the Regional Trial Court, Fifth Judicial Region, Branch 53, Sorsogon City in Civil Case No. 2009-8126 entitled “Sps. Domingo E. Dugan [and] Beatriz R. Dugan, Plaintiffs, versus Sps. Renerio Aninipot and Necitas Aninipot, Defendants.”, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered:

- 1) Declaring that the parties' sale transaction concerning defendants' property covered by TCT No. T-20389 is for the price of P800,000.00 of which plaintiffs have already paid defendants in full, with an excess payment of P2,000.00 which should be returned to plaintiffs by deducting the same from the consigned amount;
- 2) Directing defendants to execute in favor of plaintiffs the necessary absolute deed of sale of the property in question, to deliver to plaintiffs the said deed, and to turn over the physical possession of the vended property to the latter;
- 3) Ordering defendants to pay plaintiffs moral damages and attorney's fees in the sum of P100,000.00 and P25,000.00, respectively, and to pay the cost of the suit.

SO ORDERED.”

The facts are:

In their Verified Complaint[2] for Specific Performance and Damages against defendants-appellants Sps. Renerio Aninipot and Necitas Aninipot (Sps. Aninipot for brevity), plaintiffs-appellees Spouses Domingo E. Dugan and Beatriz R. Dugan (Sps. Dugan for brevity) alleged that: defendants-appellants Sps. Aninipot offered to sell to them a parcel of land covered by TCT No. T-20389, situated in Brgy. Bibincahan, Sorsogon, Sorsogon for P800,000.00; they initially paid the sum of P207,000.00 and decided to formalize their agreement in writing; they were able to pay a total of P747,050.00 leaving a balance of P52,950.00; sometime in August 2009, they informed defendants-appellants Sps. Aninipot that they are willing to pay the remaining balance and demanded that the latter comply with their obligation under the agreement and execute a Deed of Absolute Sale; however, despite repeated demands defendants-appellants Sps. Aninipot failed and refused to accept their payment of the balance of the purchase price and to execute the deed of sale; they referred the matter to the Lupon Tagapamayapa in their barangay for settlement and conciliation, but to no avail; hence, they were constrained to file this case and incurred damages, attorney's fees and other litigation expenses; and they deposited to the court, by way of consignment, the balance of the purchase price in the amount of P52,950.00.

In their Answer with Counterclaim[3], defendants-appellants Sps. Aninipot denied some of the material allegations in the complaint and admitted that they indeed offered to sell their property to plaintiffs-appellees Sps.

Dugan, albeit, the price was P800,000.00, if paid in cash, and P1,000,000.00 if paid on installment.

By way of affirmative and special defenses, they averred that: sometime in the early part of 2007, defendant-appellant Renerio Aninipot and plaintiffs-appellees Sps. Dugan signed an Agreement consisting of two (2) pages both signed by defendant-appellant Renerio Aninipot; however, the purported copy attached to the complaint was not a faithful reproduction of the original agreement as the page one (1) thereof no longer bears his signature; there were already material insertions on page one (1), such as the allegation in paragraph 5 wherein it stated that defendant-appellant Renerio Aninipot was already paid the amount of P207,000.00 as earnest money, which he denied receipt; they admitted that on several occasions, they received amounts from plaintiffs-appellees Sps. Dugan, with corresponding receipts signed by them; they denied that they received from plaintiffs-appellees Sps. Dugan the amount of P133,000.00 and the signature of defendant-appellant Renerio Aninipot on the corresponding receipt was forged; the total amount given by plaintiffs-appellees Sps. Dugan was only P612,050.00 out of the P1,000,000.00 agreed price; when defendant-appellant Renerio Aninipot signed on page 1 of the original agreement, the amount of P800,000.00 was already canceled supposedly to be replaced with the amount of P1,000,000.00, as agreed upon by them if the payment was done by installment as in this case; the change in the price was admitted and agreed upon by plaintiffs-appellees Sps. Dugan during their attempted settlement before the Lupon Tagapamayapa of Brgy. Bibincahan, Sorsogon, City; from the P1,000,000.00 purchase price, the remaining balance was P387,950.00, if the amount of P612,050.00 paid by the plaintiffs-appellees Sps. Dugan is to be subtracted; despite non-payment in full of the price of the land, plaintiffs-appellees Sps. Dugan kept in their custody TCT. No. T-20389 taking advantage of their lack of education and knowledge to transact business of this kind; and, plaintiffs-appellees Sps. Dugan have no cause of action against them.

As counterclaim, they prayed for damages, attorney's fees and other litigation expenses.

Pre-trial conference[4] was held on July 19, 2010 where parties admitted the following: 1) identity of the parties; 2) identity of the subject property; and 3) that the matter was referred to the Lupon Tagapamayapa for conciliation.

To support their claim, plaintiffs-appellees Sps. Dugan presented plaintiff-appellee Beatriz Dugan and Henedina Dugan as witnesses.

Plaintiff-appellee Beatriz Dugan testified that she knows defendants-appellants Sps. Aninipot because they are their neighbors. The latter offered to sell to plaintiffs-appellees Sps. Dugan a lot located at Gate 3 SPPVS Brgy. Bibincahan, Sorsogon City and covered by TCT No. T-20389. The agreed price for the subject property was P800,000.00. They were able to pay a total of P747,050.00, leaving a balance of P52,950.00. When they were paying the said balance, defendants-appellants Sps. Aninipot refused to accept the same prompting plaintiffs-appellees Sps. Dugan to refer the matter to the Lupon Tagapamayapa of Brgy. Bibincahan, to no avail. Hence, this case.

Henedina R. Dugan, daughter of plaintiffs-appellees Sps. Dugan, corroborated the testimonies of plaintiff-appellee Beatriz Dugan and testified further that she personally knows the transaction between her parents and defendants-appellants Sps. Aninipot. She and her siblings even contributed a certain amount to pay the purchase price. When defendants-appellants Sps. Aninipot refused to accept the balance of P52,950.00, they deposited the same with the Office of the Clerk of Court of the lower court.

Plaintiffs-appellees Sps. Dugan offered the following exhibits as evidence: 1) Exhibit "A" - Agreement; 2) Exhibits "B" to "B-22" - Receipts with their corresponding amounts and signature of defendants-appellants Sps. Aninipot; 3) Exhibit "B-11" - Letter of defendants-appellants Sps. Aninipot; 4) Exhibit "C" - TCT No. T-20389;

5) Exhibits “D” - “D-72” - Receipts with their corresponding amounts; 6) Exhibit “E” - Certification to File Action; 7) Exhibits “F”-“F-2” - Receipts with their corresponding amounts; 8) Exhibits “G”-“G-3” -Summary of Payments; and 9) Exhibit “H” - TCT No. T-20389.[5]

On the other hand, for defendants-appellants Sps. Aninipot, they testified denying receipt of the payment and alleged that the signature of defendant-appellant Renerio Aninipot was forged. After giving their testimonies, they offered the following documents as evidence: 1) Exhibits “1” and “2” - List of payments as prepared by defendant-appellant Necitas Aninipot; 2) Exhibits “3” and “3-a” - Order and Resolution of the Lupon Tagapamayapa; 3) Exhibit “4” and submarkings – Agreement; 4) Exhibit “5” - Receipt for P133,000.00; and 5) Exhibit “6” - Notebook containing list of payments.

After a judicious review of the parties' evidence, the lower court rendered the assailed decision. Hence, this appeal by defendants-appellants Sps. Aninipot presenting the following issues, to wit:

- i. Whether or not the trial court erred in finding valid the disputed agreement and in finding the sale fully paid.
- ii. Whether or not the trial court erred in finding in favor of Plaintiff (sic) including damages in disregard of the personal circumstances of the Defendants-Appellants.”

The appeal is devoid of merit.

Defendants-appellants Sps. Aninipot assail the decision of the lower court which found the Agreement entered into by them with plaintiffs-appellees Sps. Dugan to be valid. They argue that the first page thereof was not the true copy since both pages 1 and 2 of the said Agreement were signed by defendant-appellant Renerio Aninipot and the one presented by plaintiffs-appellees Sps. Dugan does not bear his signature. They further contend that the tenor of the true page 1 of the said Agreement was such that the consideration of the property if paid in cash was P800,000.00, and P1,000,000.00 when paid on installment. They also deny that they received the sum of P133,000.00 on January 5, 2007 as part of the P207,000.00 initial payment.

The a priori determination of the presence or absence of a valid agreement is well nigh indispensable to the resolution of this case. As argued by defendants-appellants Sps. Aninipot, page 1 of the said Agreement was not the true copy as it was substituted by plaintiffs-appellees Sps. Dugan. If said agreement is accepted to be valid, it is tantamount to admitting that the consideration for the sale is P800,000.00 and that defendants-appellants Sps. Aninipot received the amount of P133,000.00 as part of the purchase price.

A judicious scrutiny of such Agreement, particularly page 1 thereof, yields a different import as the one in possession of defendants-appellants Sps. Aninipot is identical to the other duplicate original submitted by plaintiffs-appellees Sps. Dugan.[6] Aside from the self-serving testimonies of defendants-appellants Sps. Aninipot, the authenticity of the said document was never controverted by clear and convincing evidence.

A perusal of the copy of said document (Exhibit “4”) which was presented by defendant-appellant Renerio Aninipot in court reveals that it was notarized by Atty. Edgardo Basares. A notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and it has in its favor the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to the falsity thereof.[7]

The validity and authenticity of the Agreement was underscored by the lower court in this wise:

“Closely examining the Agreement and the receipt, the court rules, and so holds, that they are valid and, therefore, effective. A cursory perusal of the copy of the document which came from no less than defendant Renerio Aninipot himself when he was testifying and which was marked as Exh. ”I” for plaintiffs and Exh.

“4” for defendants, showed that pages 1 and 2 thereof both bore the impression of Atty. Edgardo Basares' dry seal on the left lower margin and that the first page showed that it was initialed by Atty. Basares on the 3rd paragraph just after the sum in figure 'P207,000,00' to validate the correction of the 3rd zero into a close parenthesis. This document from defendants is identical to the other duplicate original submitted by plaintiffs to the court. These facts bolster the authenticity of the document. The fact also that defendants have in their possession an original copy of the very Agreement is an indicium of its genuineness and due execution. Another thing going against defendants was the presumed genuineness and due execution of the Agreement.”

Defendants-appellants Sps. Aninipot cannot rely on the Agreement and claim rights or obligations under it and at the same time impugn its existence or validity. While they deny receipt of the sum of P133,000.00, evidence on record shows that defendants-appellants Sps. Aninipot acknowledged receipt thereof as shown by the signature of defendant-appellant Renerio Aninipot in the receipt[8] dated January 5, 2007. Moreover, title to the said property was turned over by defendant-appellant Necitas Aninipot herself to plaintiffs-appellees Sps. Dugan[9] and they continued to receive payments on installment from the latter.

The parties voluntarily entered into an agreement relative to the sale of the said property. There was no showing that fraud attended its execution. Defendants-appellants Sps. Aninipot accepted all the payments made by plaintiffs-appellees Sps. Dugan as shown by their signatures in the receipts. The claim of defendant-appellant Renerio Aninipot's that his signature in Exhibit “5” for the amount of P133,000.00 was forged, is unsubstantiated.

Firmly settled is the rule that forgery cannot be presumed from a mere allegation, but rather must be proved by clear, positive and convincing evidence by the party alleging the same.[10] Unfortunately, defendants-appellants Sps. Aninipot failed to discharge this burden. Defendants-appellants Sps. Aninipot's claim that plaintiffs-appellees Sps. Dugan took advantage of their lack of education and coaxed defendant-appellant Renerio Aninipot to affix his signature in the said Agreement, deserves scant consideration. It was not shown that they were coerced to enter into an agreement to sell their property to plaintiffs-appellees Sps. Dugan. Truth is, they were the ones who offered their property for sale and plaintiffs-appellees Sps. Dugan accepted the offer.

On the other hand, plaintiffs-appellees Sps. Dugan were able to prove that they paid the total sum of P802,000.00 to defendants-appellants Sps. Aninipot. These payments were covered by Exhibits “B”, “D” and “F”[11], inclusive of submarkings, as well as the consigned amount of P52,950.00 covered by O. R No. 4635302 dated December 8, 2009.[12] Under the Civil Code, if the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignment of the thing or sum due.[13] Consignation shall be made by depositing the things due at the disposal of judicial authority, before whom the tender of payment shall be proved.[14]

With the consignment of plaintiffs-appellees Sps. Dugan of the sum of P52,950.00 to the court, they have fulfilled their part relative to the payment of the price of the subject property and are now released from their obligation to defendants-appellants Sps. Aninipot. In fact there was overpayment to the extent of P2,000.00 As a consequence thereof, defendants-appellants Sps. Aninipot are duty bound to deliver the subject property to plaintiffs-appellees Sps. Dugan and execute the corresponding deed of absolute sale.

Anent the award of damages, plaintiffs-appellees Sps. Dugan credibly and sufficiently established the link between defendants-appellants Sps. Aninipot's fault or negligence, on one hand, and their injury or damage, on the other hand. Damages are the natural and probable consequences of the breach, which the parties have foreseen or could have reasonably foreseen at the time the obligation was constituted.[15] Foreseeability is the fundamental test of negligence. To be negligent, a person must have acted or failed to act in such a way that an ordinary reasonable man would have realized that certain interest of certain persons were unreasonably subjected to a general but definite class of risks.[16]

Defendants-appellants Sps. Aninipot's evident bad faith in dealing with plaintiffs-appellees Sps. Dugan was shown when they refused to accept the latter's full payment for the consideration for the subject property despite their agreement, to which plaintiffs-appellees Sps. Dugan were compelled to consign the sum of P52,950.00 to the court. Due to the said refusal to accept plaintiffs-appellees Sps. Dugan's payment, the latter were not able to transfer their residence on that subject property. Instead, they were forced to transfer to a rented house, thus, incurring expenses for rent in the process.[17]

Defendants-appellants Sps. Aninipot are obligated to transfer the ownership of and deliver the subject property to plaintiffs-appellees Sps. Dugan.[18] While it was true that they delivered the title to plaintiffs-appellees Sps. Dugan, yet they refused to place the latter in control and possession of the same and to execute the Deed of Absolute Sale. Defendants-appellants Sps. Aninipot's act is tantamount to bad faith which justifies the award of damages.

Similarly, plaintiffs-appellees Sps. Dugan are entitled to attorney's fees because they were compelled to litigate to protect their right due to the unwarranted refusal of defendants-appellants Sps. Aninipot to perform their obligation to surrender and deliver possession of the subject property.

WHEREFORE, premises considered, the appeal is DENIED and the assailed Decision dated October 11, 2013 of the RTC, Branch 53, Sorsogon City in Civil Case No. 2009-8126 is hereby AFFIRMED.

SO ORDERED.

Garcia, R.R., and Bueser, D.Q., JJ., concur.

[1] Record, pp. 114-121

[2] *id.*, pp. 1-4

[3] *id.*, pp. 42-46

[4] Records, pp. 58-59

[5] *id.*, pp. 85-89

[6] Exhibit "4" for defendants-appellants, pp. 93-94, Record; Exhibit "A" for plaintiffs-appellees, pp. 7-8, *id.*

[7] *Alcazar vs. Arante*, 687 SCRA 507

[8] Exhibit "4", Annex "D" of the Complaint, p. 9, Record

[9] Exhibit "B-22", Folder of Exhibits

[10] *Hernandez-Nievera vs. Hernandez*, 642 SCRA 646

[11] Folder of Exhibits

[12] pp. 7-8, Decision; also Plaintiffs' Formal Offer of Documentary Exhibits, pp. 85-89, Record

[13] Article 1256, Civil Code

[14] Article 1258, *supra*

[15] *Continental Cement Corporation vs. Asea Brown Boveri, Inc.*, 659 SCRA 137

[16] *Philippine Hawk Corporation vs. Lee*, 612 SCRA 576

[17] TSN, January 19, 2011, p., 18

[18] Article, 1495, Civil Code of the Philippines.

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