

**LUISA RIVERO IN SUBSTITUTION OF HER DECEASED MOTHER,
LUCIA ORIGEN, PETITIONER, VS. THE HON. COURT OF APPEALS
(SPECIAL DIVISION OF FIVE JUSTICES) AND JAIME RIVERO,
RESPONDENTS.**

G.R. No. L-37159. November 29, 1977

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an appeal from the amended decision of the Court of Appeals in CA-G.R. No. 44488-R, entitled "Lucia Origen vs. Jaime Rivero" the dispositive portion of which reads:

"WHEREFORE, finding the motion for reconsideration meritorious, the judgment dated November 27, 1972 is hereby SET ASIDE and another entered, REVERSING the decision appealed from. The Deed of Sale Exh. A is hereby declared valid and subsisting and the property subject of said deed of sale and covered by Transfer Certificate of Title No. T-56789 in the name of Jaime Rivero is hereby declared to be the rightful property and possession of said Jaime Rivero. The complaint of Lucia Origen is hereby DISMISSED. Motion for Reconsideration is GRANTED.

SO ORDERED.

(SGD) LOURDES P. SAN DIEGO

WE CONCUR:

(SGD) RUPERTO G. MARTIN

(SGD) LUIS B. REYES"[1]

On May 3, 1965, Lucia Origen, together with Cipriano de la Cruz, Leocadia Rivero, Domingo Rivero and Delfin Jusayan, instituted against Jaime Rivero in the Court of First Instance of Bulacan Civil Case No. 136-V to declare null and void a contract of sale of a parcel of land and Transfer Certificate of Title No. T-56789 of the Registry of Deeds of Bulacan.[2]

The complaint[3] stated that the deceased Ana Concepcion who died on April 18, 1965 was formerly the registered owner of a certain parcel of land situated at Barrio Tagalag, Valenzuela, Bulacan, containing an area of 23,245 square meters and was embraced in Transfer Certificate of Title No. T-55814; that the plaintiffs are some of the legal heirs of the deceased, Ana Concepcion, who died intestate; that on or about March 15, 1965, during her last illness, the deceased decided to mortgage the above-mentioned property for P5,000.00 so that she could pay her existing obligation to one Filomena Jusayan in the amount of P3,000.00 and to spend for her recovery from illness; that she entrusted the title to her property to the defendant, Jaime Rivero, trusting that he would facilitate the mortgage; that the defendant did not mortgage the property but instead, on or about March 25, 1965, when Ana Concepcion was no longer in full possession of her reasoning faculties, said defendant, through fraud

and misrepresentation, manifesting that certain documents were supposed to be deeds of mortgage of the above-named property and also through violence and undue influence on Ana Concepcion, effected the signing by the deceased of the documents which are in reality a deed of absolute sale and an affidavit of alienation; that the defendant did not give any consideration to Ana Concepcion and, in fact, the deceased died without paying her debt to Filomena Jusayan, and said Ana Concepcion lacked proper medical treatment; that on or about March 26, 1965, the defendant effected the registration of the property in question in his name and Transfer Certificate of Title No. T-56789 was issued to him by virtue of the documents signed through mistake, fraud and violence; that as a consequence of the defendant's fraudulent acts and breach of trust, the plaintiffs suffered moral and exemplary damages amounting to a total of not less than P40,000.00; and that the plaintiffs were constrained to engage counsel for a fee of P5,000.00.

After his motion to dismiss was denied, the defendant, Jaime Rivero, filed on September 14, 1965 an answer^[4] wherein he alleged as special and affirmative defenses that the trial court has no jurisdiction over the subject matter of the action; that the plaintiffs have no legal capacity to sue; that the claim on which the action is founded is unenforceable under the Statute of Frauds; that the complaint states no cause of action; that the suit is between members of the same family and no earnest effort towards a compromise had been made; that the deed of absolute sale and affidavit of alienation were executed by Ana Concepcion freely and voluntarily; and that the defendant has fully paid the consideration of the said deed of absolute sale and affidavit of alienation. The defendant interposed a counterclaim for damages and attorney's fees.

The trial court rendered its decision dated May 20, 1969, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered: (1) declaring null and void the deed of sale purportedly executed by Ana Concepcion on March 24, 1965, and acknowledged before notary public Irineo Guardiano and entered in the latter's nota-rial register as Doc. No. 257, Page 53, Book X, Series of 1950, and the sworn affidavit executed by her on March 25, 1965 in connection with said alleged sale; (2) ordering the cancellation of T.C.T. No. T-56789 and Tax Declaration No. 15219, both in the name of Jaime Rivero; and the restitution of the previous certificate of title and tax declaration in the name of Ana Concepcion; (3) declaring the land covered by said certificate of title and tax declaration to be the pro-perty of the estate of Ana Concepcion which should be settled in the appropriate special proceedings; and (4) reserving the right to Jaime Rivero to file his claim in said special proceedings for the amounts he paid to settle the obligations of Ana Concepcion in favor of Filomeno Zamora and Crisanto Origen.

Costs against the defendant.

SO ORDERED.

Valenzuela, Bulacan, May 20, 1969.

JUAN DE BORJA

Judge"^[5]

The defendant appealed to the Court of Appeals where the case was docketed as CA-G.R. No. 44488-R.

At first, the Court of Appeals promulgated a decision on November 27, 1972 written by Acting Presiding Justice Juan P. Enriquez and concurred in by Justice Juan O. Reyes and Justice Luis B. Reyes affirming in toto the decision of the trial court.^[6] Justice Lourdes P. San Diego and Justice Eloy B. Bello dissented in a separate opinion.^[7]

Upon a motion for reconsideration filed by the defendant, the Court of Appeals promulgated on May 4, 1973 an amended decision written by Justice Lourdes P. San Diego and concurred in by Justice Ruperto G. Martin and

Justice Luis P. Reyes reversing the decision of the trial court appealed from and declaring the deed of sale, Exhibit A, valid and subsisting and the property covered by Transfer Certificate of Title No. T-56789 as the rightful property of Jaime Rivero.[8] Acting Presiding Justice Juan P. En-riquez dissented in a separate opinion concurred in by Justice Juan O. Reyes.[9]

The present petitioner, Luisa Rivero, was substituted for her deceased mother, Lucia Origen.

The petitioner assigns the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT 'THE ADMISSION BY PLAINTIFF-APPELLEE IN HER VERIFIED COMPLAINT THAT THE SIGNATURE OF ANA CONCEPCION ON THE DEED OF SALE AS WELL AS IN EXHIBIT 'B' OR '5' IS GENUINE PARTAKES OF THE NATURE OF A JUDICIAL ADMISSION WHICH, UNDER THE PROVISION OF SEC. 2, RULE 129, CANNOT BE CONTRADICTED AND ALL CONTRADICTORY PROOF SUBMITTED BY THE PARTY MAKING SUCH JUDICIAL ADMISSION OR INCONSISTENT THEREWITH MUST BE IGNORED BY THE COURTS WHETHER OBJECTED TO OR NOT BY THE OPPOSING PARTY.'

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE 'TESTIMONY OF MAJOR CATA-LINO F. FERNANDEZ, ALLEGED HANDWRITING EXPERT, TO THE EFFECT THAT ANA CONCEPCION'S SIGNATURE WAS FORGED, AND ON WHOSE TESTIMONY THE LOWER COURT AND THE MAJORITY OF THIS DIVISION RELIED UPON IN THEIR RESPECTIVE DECISIONS, CANNOT AND SHOULD NOT HAVE BEEN CONSIDERED.'

III

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING 'THAT NEITHER SEC. 5 RULE 10 NOR THE MARELLA CASE CAN APPLY IN THE CASE INASMUCH AS SAID SECTION CONTEMPLATES ONLY EVIDENCE CONSISTENT WITH AND MADE TO SUPPORT THE ALLEGATIONS OF A COMPLAINT AND DEFINITELY NOT EVIDENCE CONTRADICTORY TO ALLEGATIONS STATED IN THE COMPLAINT.'

IV

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT 'WE DO NOT FIND ANY PROOF, NAY NOT EVEN THE SLIGHTEST SUGGESTION ON THE PART OF THE PLAINTIFF THAT THIS PARTICULAR ALLEGATION IN THE COMPLAINT WAS MADE THRU PALPABLE MISTAKE.'

V

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT 'WE ARE OF THE CONSIDERED OPINION THAT THE REASONING EVOLVED IN THE DISSENTING OPINION OF THE LATE JUSTICE E. BELLO THOROUGHLY SUPPORTS THE VIEW THAT A PUBLIC DOCUMENT ENJOYS IN ITS FAVOR THE PRESUMPTION THAT THE CONTENTS THEREOF ARE TRUE AND THAT THE SAID PUBLIC DOCUMENT HAS BEEN EXECUTED ACCORDING TO LAW, WHICH PRESUMPTION, ALTHOUGH DISPUTABLE, WILL NOT BE DISCARDED EXCEPT BY OVERWHELMING EVIDENCE TO THE CONTRARY. THIS QUANTUM OF EVIDENCE WE DO NOT FIND IN THE CASE UNDER CONSIDERATION.'

VI

FINALLY, THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE LOWER COURT AND IN RULING THAT 'THE DEED OF SALE EXHIBIT 'A' IS HEREBY DECLARED VALID AND SUBSISTING AND THE PROPERTY SUBJECT OF SAID DEED OF SALE AND COVERED BY TRANSFER CERTIFICATE NO. T-56789 IN THE NAME OF JAIME RIVERO IS HEREBY DECLARED TO BE THE RIGHTFUL PROPERTY AND POSSESSION OF SAID JAIME RIVERO.'[10]

Despite the number of errors assigned, the principal issue is the validity of the deed of sale, Exhibit A.

The record discloses that Ana Concepcion was the only daughter of Vicente Concepcion who died in 1934; that Ana Concepcion inherited from her father a parcel of land which is the subject of the present controversy; that Ana Concepcion was afflicted with pulmonary tuberculosis and as she needed money for her treatment, she requested her nephew, Jaime Rivero, to work for the transfer of the title of the land in question to her; that on January 20, 1965, through the efforts of Jaime Rivero, Transfer Certificate of Title No. T-55814 embracing said land was issued in the name of Ana Concepcion; that Transfer Certificate of Title No. T-55814 was never delivered by Jaime Rivero to Ana Concepcion until she died; that not long after the death of Ana Concepcion on April 18, 1968, the relatives of the deceased discovered that the land of Ana Concepcion had been registered in the name of Jaime Rivero who secured Transfer Certificate of Title No. 56789 in his name from the Register of Deeds of Bulacan; and that a deed entitled "Kasulatan Sa Ganap Na Bilihan" dated March 24, 1965, whereby it was made to appear that Ana Concepcion had sold to Jaime Rivero the land in question, was allegedly concocted by Jaime Rivero, taking advantage of his being in possession of the certificate of title of Ana Concepcion.[11]

The evidence of the plaintiffs on the issue of forgery consisted of the testimony of Major Catalino F. Hernandez who was presented as a handwriting expert. Major Hernandez declared that he made a study of the authenticity and genuineness of the signature of Ana Concepcion on the deed of sale, Exhibit A, by comparing it with the signatures of Ana Concepcion appearing in four (4) documents admittedly signed by her. The standards used by the handwriting expert are the sworn statement dated March 25, 1965, Exhibit B; the affidavit of adjudication dated January 20, 1965, Exhibit C; the option to sell dated October 5, 1958; and the voter's affidavit and list of voters for the election of 1955 which contain the signature of Ana Concepcion.

The testimony of Major Catalino F. Hernandez that the deed of sale was a forgery was not contradicted by evidence of the defendant. According to said handwriting expert, the signature in the deed of sale, Exhibit A, shows irregular, tremulous, hesitating and corrective strokes. It is written with a drawing movement, unlike the standard signatures where the movement is fluent. The handwriting characteristics are dissimilar. Based on these dissimilarities, Major Hernandez concluded that the signature on the deed of sale, Exhibit A, was not written by Ana Concepcion.[12]

The trial court, although desisting from calling the deed of sale, Exhibit A, a forgery, found that the consent of Ana Concepcion was obtained through fraudulent misrepresentation of Jaime Rivero because:

"This Court, for one, is not infallible, and will desist from calling Exhibit A a forgery to avoid the risk of passing erroneous judgment on people who might otherwise be innocent. But even on the assumption that the document was in fact signed by Ana Concepcion, the Court finds that it could not have been her intention to sell the land to Rivero.

Ana Concepcion was illiterate. She could sign her name with difficulty. Luisa Rivero, who attended her, studied only up to grade school, and the two of them could not have understood the meaning and import of the documents Ana Concepcion was made to sign. But the latter knew the value of her property as far back as

1958, for in that year she gave an option to sell it for P4.50 per square meter (Exh. D), which is more than P100,000.00 for the whole area. She could readily have sold it for perhaps less than that amount at any time. But instead of doing so she only borrowed P2,623.00 from Filomena Zamora (Exh. 19) and P450.00 from Crisanto Origen (Exh. 20). This can only mean that she did not want to sell the property for less than its actual value. On March 25, 1965 she was already gravely ill and in need of funds. Yet why should she be willing to sell the land for P5,000.00, when she well knew that she could get P100,000.00 for it? In this situation, it is not difficult to believe the testimony of Luisa Rivero that what the old woman wanted was to mortgage the property in order to pay off her debts and have ready funds. By the same token she could not have agreed to sell the land to Rivero for P5,000.00. If she signed the deed of sale and subsequent affidavit, it was under the false belief that she was only mortgaging the property. The sale is therefore voidable, because the consent of Ana Concepcion was obtained thru the fraudulent misrepresentation of Rivero that the contract she was signing was one of mortgage (Art. 1330, N.C.C.).

'In determining whether consent is vitiated by any of the circumstances mentioned in this article, courts are given a wide latitude in weighing a the facts or circumstances in a given case and in deciding in favor of what they believe to have actually occurred, considering the age, physical infirmity, intelligence, relationship, and the conduct of the parties at the time of making the contract and sub-sequent thereto, irrespective of whether the contract is in a public or private writing.' (Trasporto vs. Beltran, C.A. 51 O.G. 1434.)"[13]

The undisputed facts of record support the finding of the trial court that the consent of Ana Concepcion to the deed of sale was obtained through the fraudulent misrepresentation of Jaime Rivero that the contract she was signing was one of mortgage.

The land in question is located in the Municipality of Polo, Bulacan, very near Manila. It has an area of 2 hectares, 32 ares and 45 centares. The consideration for the sale of said land is only P5,000.00 which is not only grossly inadequate but shocking to the conscience. The land in question was sold for less than P0.25 per square meter.

It appears that Ana Concepcion only wanted to mortgage the property so she could pay her indebtedness of about P3,000.00. Considering the nature of the area of the property, the same can be sold for about P100,000.00. In 1958 Ana Concepcion had executed an option to sell the land in question for a price of P4.50 per square meter. It appears from the description of the land in question that the same is a corner lot being bounded on the south and west by a road 3 meters wide.[14]

In view of the foregoing, we find that Ana Concepcion signed the alleged deed of sale, Exhibit A, thinking that the same was merely a mortgage of the land in question.

WHEREFORE, the amended decision of the Court of Appeals promulgated on May 4, 1973 in CA-G.R. No. 44488-R is hereby reversed and the decision of the trial court is affirmed in toto, with costs against the private respondent Jaime Rivero.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.
Martin, J., did not take part.

[1] Rollo, p. 164. Justice Lourdes P. San Diego wrote the decision and was concurred in by Justice Ruperto G. Martin and Justice Luis B. Reyes. Acting Presiding Justice Juan P. Enriquez dissented in a separate opinion concurred in by Justice Juan O. Reyes.

- [2] Rollo, pp. 111-112.
- [3] Record on Appeal, pp. 2-5, Rollo, p. 171.
- [4] Ibid., pp. 20-24, Rollo, p. 171.
- [5] Ibid., pp. 40-41, Rollo, p. 171.
- [6] Rollo, pp. 111-127.
- [7] Rollo, pp. 128-142.
- [8] Rollo, pp. 158-164.
- [9] Rollo, pp. 165-169.
- [10] Brief for Petitioner, pp. A-C, Rollo, p. 183.
- [11] Rollo, pp. 114-116.
- [12] Record on Appeal, pp. 31-32, Rollo, p. 171.
- [13] Record on Appeal, pp. 38-40, Rollo, p. 171.
- [14] Ibid., p. 3, Rollo, p. 171.

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