

GLORIA A. MILLONTE, PLAINTIFF-APPELLEE, VS. CITY OF TANAUAN, DEFENDANT-APPELLANT.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the appeal from the Decision dated 17 August 2012[1] (“assailed Decision”), of the Regional Trial Court, Fourth Judicial Region, Branch 83, Tanauan City, Batangas (“RTC”), in Civil Case No. 04-05-1557 which granted the Complaint for Declaration of Nullity of the Deed of Absolute Sale and Title (“Complaint”) filed by Gloria A. Millonte (“plaintiff-appellee Millonte”) against the City of Tanauan (“defendant-appellant City”).

THE FACTS

The undisputed facts are as follows: plaintiff-appellee Millonte's mother, Florencia Gonzaga Arroyo, was the daughter of Lucio Gonzaga (“Lucio”), therefore plaintiff-appellee Millonte was the granddaughter of Lucio; Lucio had four siblings (i.e. Marcelo Gonzaga [“Marcelo”], Eleuteria Gonzaga [“Eleuteria”], Pantaleona Gonzaga [“Pantaleona”], and Ambrosio Gonzaga [“Ambrosio”], collectively, “Lucio's siblings”); Lucio and Lucio's siblings were registered owners of the lot covered by Original Certificate of Title (“OCT”) Number 3243.

The Complaint[2] averred: plaintiff-appellee Millonte discovered that OCT Number 3243 was cancelled by virtue of the Deed of Absolute Sale dated 10 February 1970 (“Deed of Absolute Sale”)[3] entered into by Lucio and Lucio's siblings with defendant-appellant City, and Transfer Certificate of Title Number T-42198 (“TCT Number T-42198”) was issued; when plaintiff-appellee Millonte examined the Deed of Absolute Sale, plaintiff-appellee Millonte discovered that Lucio and Lucio's siblings were already dead on the date the Deed of Absolute Sale was allegedly executed thus there was no agreement to speak of, and the Deed of Absolute Sale was void; plaintiff-appellee Millonte prayed for the annulment of the Deed of Absolute Sale and TCT Number T-42198 issued in the name of defendant-appellant City, and the reinstatement of OCT Number 3243.

Defendant-appellant City filed the Answer with Counterclaim,[4] which alleged: plaintiff-appellee Millonte's right to file the action for annulment of the Deed of Absolute Sale had long prescribed because more than 34 years had passed since the execution of the Deed of Absolute Sale, and more than 14 years had passed from the recording of the sale in the Register of Deeds of Tanauan City; defendant-appellant City had been in the continuous, exclusive, adverse, notorious possession and occupation of the lot covered by TCT Number T-42198, since 1960; further, there was no showing that Lucio was already dead on the date the Deed of Absolute Sale was executed; defendant-appellant City prayed for the dismissal of the Complaint for lack of cause of action, and prescription.

After the conduct of pre-trial, the RTC proceeded with the trial.

The following persons testified for the plaintiff-appellee Millonte: Rolando Gonzaga (“Rolando,” the grandson of Lucio, and first cousin of plaintiff-appellee Millonte); Florentino Hernandez (“Florentino,” the grandson of Eleuteria); Dante de Sagun (“Dante,” the City Civil Registrar of Tanauan City); and plaintiff-appellee Millonte.

The evidence for the plaintiff-appellee Millonte is summarized thus: Lucio died in 1940 and left the lot covered

by OCT Number 3243, registered in the names of Lucio and Lucio's siblings; Ambrosio died on 29 December 1959 per the death certificate issued by the Office of the Civil Registrar of Tanauan, Batangas; Eleuteria died ahead of Lucio; a fire razed the Office of the Civil Registrar of Tanauan, Batangas during World War II, hence the original death certificates of Marcelo, Pantaleona, Lucio, and Eleuteria could not be produced; certifications issued by the Office of the Civil Registrar of Tanauan, Batangas showed that records of deaths were complete from 1945 up to date the certifications were issued, but were wanting as to the periods 10 May 1942 to 16 April 1945; the Deed of Absolute Sale was spurious because Lucio and Lucio's siblings died prior to 1970, when the Deed of Absolute Sale was allegedly executed.

The following persons testified for the defendant-appellant City: Francisco Lirio ("Francisco," former Vice Mayor of Tanauan City); and Pedro Dario Guevarra ("Pedro," the City Legal Officer of Tanauan City).

The evidence for the defendant-appellant City is summarized thus: Francisco was aware of the Deed of Absolute Sale between Lucio, Lucio's siblings, and defendant-appellant City, because Mayor Sebastian showed Francisco the Deed of Absolute Sale; Atty. Venancio Marfa notarized the Deed of Absolute Sale; Francisco did not witness the signing of the Deed of Absolute Sale because when the Deed of Absolute Sale was shown to Francisco, the Deed of Absolute Sale was already signed; Francisco did not verify the identities of the signatories to the Deed of Absolute Sale; Francisco had no personal knowledge as to the identities of the sellers; Pedro was the former Councilor and Municipal Secretary of Tanauan, Batangas; the then Mayor Pedro Gonzales advised Pedro to look for the owners of the lot, but Pedro did not find any of the owners or the relatives of the owners of the lot; Pedro did not personally know the signatories to the Deed of Absolute Sale; Pedro did not know whether the signatories were the actual vendors named in the Deed of Absolute Sale; Pedro was not present during the signing and execution of the Deed of Absolute Sale; Pedro was certain that Ambrosio was already dead at the time of the execution of the Deed of Absolute Sale, but Pedro was uncertain if the other owners were still living.

On 17 August 2013, the RTC rendered the assailed Decision,[5] and granted plaintiff-appellee Millonte's Complaint. The dispositive portion of the assailed Decision read:

WHEREFORE, PREMISES CONSIDERED, JUDGMENT is hereby rendered:

1. Declaring as NULL and VOID the subject Deed of Absolute Sale dated 10 February 1970;
2. Declaring as NULL and VOID Transfer Certificate of Title No. T-42198 registered in the name of the Municipality of Tanauan, Batangas over the parcel of land (Lot no. 406 of the Cadastral Survey of Tanauan) situated in the City of Tanauan, with an area of 1,299 square meters;
3. REINSTATING Original Certificate of Title No. 3243 registered in the names of Marcelo Gonzaga, Eleuteria Gonzaga, the wife of Victor Castillo, Pantaleona Gonzaga, Lucio Gonzaga married to Leonardo Silva and Ambrosio Gonzaga married to Geronima Castillo; The plaintiff's other claims aside from the foregoing are denied for lack of merit and sufficient basis.

SO ORDERED.

Aggrieved, defendant-appellant City files the defendant-appellant's Brief,[6] and makes the following assignment of errors:[7]

ASSIGNMENT OF ERRORS

I.

WHETHER THE DEED OF SALE TRANSFERRING THE PROPERTY IN QUESTION TO THE DEFENDANT-APPELLANT WAS SIGNED BY THE PLAINTIFF-APPELLEE'S ANCESTORS OR NOT.

II.

WHETHER OR NOT THE TRANSFER OF THE LAND TO THE DEFENDANT-APPELLANT WAS LEGALLY MADE.

III.

WHETHER OR NOT THE ACTION TO DECLARE AS NULL AND VOID A FORGED OR SIMULATED CONTRACT PRESCRIBES.

IV.

WHETHER OR NOT THERE IS A NEED TO REINSTATE O.C.T. 3243 OF THE REGISTRY OF DEEDS OF BATANGAS.

V.

WHETHER OR NOT THERE IS A NEED TO CANCEL T.C.T. NO. 42198 IN THE NAME OF THE DEFENDANT-APPELLANT.

VI.

WHETHER OR NOT PLAINTIFF-APPELLEE IS ENTITLED TO ATTORNEY'S FEES AND DAMAGES.

VII.

WHETHER PLAINTIFF-APPELLEE HAS A CAUSE OF ACTION AGAINST DEFENDANT-APPELLANT.

VIII.

WHETHER PLAINTIFF-APPELLEE IS ESTOPPED FROM FILING THE HEREIN ACTION.

IX.

WHETHER PLAINTIFF-APPELLEE HAS THE RIGHT TO FILE THE HEREIN CLAIM FOR THE SUBJECT PROPERTY DESCRIBED.

X.

WHETHER PLAINTIFF-APPELLEE HAS THE PERSONALITY TO FILE THE HEREIN ACTION AND WHETHER PLAINTIFF-APPELLEE IS THE REAL PARTY-IN-INTEREST.

The issue is whether the RTC erred in granting the Complaint upon a finding that the Deed of Absolute Sale was void.

PLAINTIFF-APPELLEE'S BRIEF

Plaintiff-appellee Millonte answers in the negative. The RTC did not err in granting the Complaint upon a finding that the Deed of Absolute Sale was void.

The Appellee's Brief[8] parries: Lucio and Lucio's siblings did not sign the Deed of Absolute Sale because they were already long dead on the date the Deed of Absolute Sale was allegedly executed; if a party to a contract was already dead at the time the contract was entered into, the contract is undoubtedly simulated and false and, therefore void; the Deed of Absolute Sale produced no legal effect, and transmitted no legal rights; defendant-appellant City did not acquire any rights over the lot, therefore the cancellation of OCT Number 3243, and the issuance of TCT Number T-42198 in the name of defendant-appellant City, had no legal basis; the RTC should not have given due course to the defendant-appellant City's appeal because the Notice of Appeal filed by defendant-appellant City failed to state the material dates showing the timeliness of the appeal and that appropriate docket fee was paid, within the period prescribed by law.

DEFENDANT-APPELLANT'S BRIEF

Defendant-appellant City answers in the affirmative. The RTC erred in granting the Complaint upon a finding that the Deed of Absolute Sale was void.

The Appellant's Brief[9] parries: the Deed of Absolute Sale was not a void contract but an unenforceable contract (i.e. entered into without the authority, or beyond the powers of another person), hence the Deed of Absolute Sale may be ratified; being an unenforceable contract, the action to annul the same must have been brought within ten years from the time the right of action accrued; the ten-year period had already lapsed, therefore plaintiff-appellee Millonte's action had already prescribed.

THE COURT'S RULING

At the outset, we find it necessary to determine whether we should dismiss outright this appeal filed by defendant-appellant City for failure of defendant-appellant City's Notice of Appeal[10] to state the material dates showing the timeliness of the appeal,[11] and for failure to state that the appropriate docket fee was paid within the period provided by law.[12]

We rule in the negative. We cannot dismiss outright the appeal filed by defendant-appellant City.

While it may be true that the defendant-appellant City's Notice of Appeal[13] did not state the material dates showing the timeliness of the appeal, and did not state that appropriate docket fee was paid within the period prescribed by law, we cannot dismiss this case outright because the Records show the timeliness of the appeal and payment of appropriate docket fee within the period prescribed by law.[14]

Per the Records, the defendant-appellant City received the assailed Decision[15] on 29 October 2012.[16] Defendant-appellant City filed the Notice of Appeal[17] and paid the docket fee, on 05 November 2012, or seven days from receipt of the assailed Decision,[18] and within the 15-day reglementary period provided by law.[19] Moreover, in the Order dated 07 December 2012 the RTC ruled that defendant-appellant City had filed the Notice of Appeal on time.[20]

Having determined that the defendant-appellant City filed the appeal and paid the docket fee on time, we proceed to discuss the merits of this case.

We rule in the negative. The RTC did not err in granting the Complaint upon a finding that the Deed of Absolute Sale was void.

As a general rule, notarized documents are prima facie evidence that the document was authentic and duly executed.[21] Forgery is never presumed. Hence, the burden of proof lies with the party who alleges that the document is spurious and forged.[22] The quantum of proof needed to prove forgery is clear and convincing evidence.[23]

Plaintiff-appellee Millonte was able to overcome the presumption of regularity by presenting clear and convincing evidence that the Deed of Absolute Sale was forged, because on the date of the alleged execution of the Deed of Absolute Sale, Lucio and Lucio's siblings were already dead.

Plaintiff-appellee Millonte proved that Ambrosio died on 29 December 1959, per the death certificate of Ambrosio issued by the Office of the Civil Registrar of Tanauan, Batangas.[24] Further, it was undisputed that the records of the Office of the Civil Registrar of Tanauan, Batangas was razed in fire during the last world war, hence all original records of deaths from the periods 10 May 1942 to 16 April 1945 were lost. Plaintiff-appellee Millonte therefore correctly resorted to the presentation of secondary evidence in the form of testimonies of witnesses and certifications issued by the Office of the Civil Registrar of Tanauan, Batangas to prove the time of

deaths of Pantaleona, Lucio, Marcelo, and Eleuteria.[25]

The testimony of plaintiff-appellee Millonte[26] proved that Lucio died in 1940, thus:

ATTY. MAURICIO:

Q Would you tell the Hon. Court who your parents are?

A My parents are Florencia Gonzaga and Lucio Arroyo, Ma'am.

Q Would you kindly tell us who the parents of Florencia Arroyo your mother?

A My grandparents are Lucio Gonzaga and Leonarda Silva, Ma'am.

Q Would you tell the Hon. Court when your parents Florencia and Lucio Arroyo died?

A My mother died last December 1, 1985 and my father died last December 29, 1977, Ma'am.

Q How about your grandparents were they still living when your parents died?

A No they are not living anymore.

Q Your mother Florencia Gonzaga died in 1985, what about her parents Lucio Gonzaga, when did he die?

A He died in 1940, Ma'am.

Q How did you know that Lucio Gonzaga died in 1940?

A My mother told me that, Ma'am.

The testimony of Florentino[27] proved that Eleuteria died prior to 1940, thus:

ATTY. MAURICIO:

Q Do you know a certain Lucio Gonzaga?

A Yes sir.

Q Who is this Lucio Gonzaga?

A He is the brother of my grandmother, sir.

xxx

Q How about this Eleuteria Gonzaga? Do you know her?

A Yes ma'am, because she is my grandmother.

Q Would you tell this Honorable Court whether Eleuteria is still living?

A Matagal na po siyang patay. Una pa iyon sa Lucio Gonzaga.

As to the deaths of Marcelo and Pantaleona, plaintiff-appellee Millonte produced certifications^[28] issued by the Office of the Civil Registrar of Tanauan, Batangas attesting to the fact that the Office of the Civil Registrar of Tanauan, Batangas' records of deaths were complete from 1945 up to the date the certifications were issued. However, the records during the periods 10 May 1942 to 16 April 1945 were completely destroyed during the last world war. Hence, the Office of the Civil Registrar of Tanauan, Batangas did not have the original copy of death certificates of Marcelo and Pantaleona. The fact that the records of deaths of the Office of the Civil Registrar were complete from 1945 up to the date the certifications were issued, leads to the conclusion that Marcelo and Pantaleona died prior to 1945.

It is settled that evidence is clear and convincing if it produces in the mind of the trier of fact a firm belief or conviction as to allegations sought to be established. It is intermediate, being more than preponderance, but not to the extent of such certainty as is required beyond reasonable doubt as in criminal cases.^[29] From the foregoing evidence presented by plaintiff-appellee Millonte, it was clear that Lucio and Lucio's siblings were already dead when the Deed of Absolute Sale was executed on 10 February 1970.

Having been dead on the date the Deed of Absolute Sale was allegedly executed (10 February 1970), Lucio and Lucio's siblings could not have validly signed the Deed of Absolute Sale. Hence the Deed of Absolute Sale was simulated, and therefore void. Contracting parties must be juristic entities at the time of the consummation of the contract. Hence, if any one party to a supposed contract was already dead at the time of its execution, such contract is undoubtedly simulated, and therefore void by reason of its having been made after the death of the party who appears as one of the contracting parties therein.^[30]

Being void, the Deed of Absolute Sale was subject to attack at any time and the action for declaration of nullity of the Deed of Absolute Sale was imprescriptible.^[31] Thus, the RTC correctly set aside and cancelled defendant-appellant City's TCT Number T-42198, and correctly reinstated OCT Number 3243.

We AFFIRM the Decision dated 17 August 2012 of the Regional Trial Court, Branch 83, Tanauan City (Batangas), in Civil Case No. CV-04-04-05-1557.

All other reliefs prayed for by plaintiff-appellee Millonte are denied for lack of sufficient basis.

IT IS SO ORDERED.

Lampas Peralta, F., Chairperson and Cruz, S.C., JJ., concur.

[1] Records, p. 366.

[2] Ibid..

[3] Records, p. 9.

[4] Records, p. 84.

[5] Supra., note 1.

[6] C.A. Rollo, p. 41.

[7] Ibid..

[8] C.A. Rollo, p. 14.

[9] Supra, note 6.

[10] Supra, note 10.

[11] Section 5, Rule 41 of the Revised Rules of Court provides as follows:

Sec. 5. Notice of appeal. - The notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.

[12] Section 4, Rule 41 of the Revised Rules of Court provides as follows:

Sec. 4. Appellate court docket and other lawful fees. - Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

[13] Ibid..

[14] University of Mindanao, Inc. v. Court of Appeals, G.R. No. 181201, 21 February 2011.

[15] Supra, note 1.

[16] Supra, note 17.

[17] Supra, note 10.

[18] Supra, note 1.

[19] Section 3, Rule 41, Revised Rules of Court provides as follows:

Sec. 3. Period of ordinary appeal. - The appeal shall be taken within fifteen (15) days from notice of the judgment

or final order appealed from. xxx

[20] Records, p. 389.

[21] dela Cruz v. Spouses Sison, G.R. No. 163770, 17 February 2005.

[22] Bautista v. Court of Appeals, G.R. No. 158015, 11 August 2004.

[23] Supra, note 24.

[24] Records, p. 176.

[25] Sec. 5, Rule 130, Revised Rules of Court provides as follows:

Sec. 5. When original document is unavailable. - When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its content by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.

[26] TSN dated 25 May 2006, p. 4.

[27] TSN dated 23 March 2006, p. 8.

[28] Records, p. 177.

[29] Black's Law Dictionary, 5th Ed., 227.

[30] Heirs of Ingjug-Tiro v. Spouses Casals, G.R. No. 134718, 20 August 2001.

[31] Article 1410, New Civil Code provides as follows:

Art. 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.

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