

IN RE: PETITION FOR APPROVAL OF DEED OF EXTRAJUDICIAL PARTITION OVER LOT 2698 DIPOLOG CADASTRE AND LOT 2661 DIPOLOG CADASTRE,

Ponente: BORJA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/85cda1d66578/>

BORJA, J.:

This is an appeal under Rules 41 and 44 of the Rules of Court assailing the December 09, 2009 Order[1] of the Regional Trial Court (RTC), Branch 8, 9[th] Judicial Region, Dipolog City, in Miscellaneous Proceeding No. 9255, denying the “Petition for Approval of Deed of Extrajudicial Partition over Lot 2698, Dipolog Cadastre and Lot 2661, Dipolog Cadastre”.

The Facts of the Case

On July 16, 2009, Virginia Dagooc filed her petition before the lower court,[2] alleging as follows:

She was one of the heirs of the late Bonifacia Duhaylungsod, one of the registered owners of Lot No. 2698 with an area of 12,139 square meters, covered by Original Certificate of Title (OCT) No. RO-218 (3956), and Lot No. 2661 with an area of 15,219 square meters, covered by OCT No. RO-223 (10655), both certificates issued by the Register of Deeds of Dipolog City.

Bonifacia Duhaylungsod and her siblings entered into a “Personal Agreement” stipulating that “Lot No. 2661 should be divided by and among Cristina Duhaylungsod, Lazaro Duhaylungsod, Rufino Duhaylungsod and Benito Duhaylungsod; while Lot No. 2698 should be divided by and among Gaudencio Duhaylungsod, Bonifacia Duhaylungsod, Fructu[o]sa Duhaylungsod and Ciriaca Duhaylungsod.”

On April 21, 2007, petitioner, her co-heirs, and some vendees of the aforementioned lots executed, before Notary Public Feliciano M. Maraon of Dipolog City, a Deed of Extrajudicial Partition of Real Properties. Thereafter, they tried to register the Deed with the Register of Deeds of Dipolog City, who, however, refused to register it because, allegedly, the same was based on a personal agreement which required approval by the courts of law since it had not been “duly notarized.”

On July 16, 2009, the trial court directed the petitioner to inform the court whether the fact of such extrajudicial partition had been duly published in a newspaper of general circulation in accordance with Sections 1 and 2 of Rule 74 of the Rules of Court.[3]

On July 23, 2009, the petitioner accordingly filed her “Manifestation” attaching thereto a copy of an “Affidavit of Publication” executed by Joel S. Amatong, publisher of the Mindanao Observer, who averred that the notice of extrajudicial partition of real properties was published in “THE MINDANAO OBSERVER” for three consecutive weeks on the following dates: February 10, 17 and 24, 2008.[4]

On July 24, 2009, the lower court issued an Order setting the case for hearing on September 3, 2009; the Office of the Dipolog City Prosecutor and the Dipolog City Registrar of Deeds were duly notified of the hearing.[5]

On September 3, 2009, no one appeared to oppose the petition and, thus, petitioner prayed that she be allowed to present her case before a designated commissioner.[6]Whereupon, the trial court issued an Order designating its branch clerk of court “Commissioner to preside over the presentation of evidence by the petitioner after which the same is considered as submitted for resolution of this court.”[7]

On September 14, 2009, the case was heard; petitioner and Helen Ogoc Edrosolano testified.[8]

On December 9, 2009, in the Order herein assailed, the trial court denied the petition.

Thus, the present appeal in which the petitioner(hereinafter, appellant) alleges -

THAT THE COURT GRAVELY ERRED IN DENYING THE PETITION FILED BY PETITIONER – APPELLANT.[9]

The Ruling of the Court

The lower court defined the issues in the case in this manner –

The petition seeks to resolve the authenticity of the “Personal Agreement” dated November 23, 1953 which is used as a basis of the Extrajudicial Partition entered into by and between the petitioner and her co-heirs, as well as the Deed of Extrajudicial Partition.[10]

In denying the petition, the trial court ratiocinated thus –

The petitioner failed to establish with sufficient evidence that the personal agreement dated December 23, 1959 is genuine and authentic. The signatories found therein, were all dead and could no longer testify.

The petitioner presented Virginia Dagooc-Ogoc to prove its authenticity. It appears however, that Virginia Dagooc-Ogoc is not a signatory to the personal agreement. She is not even a witness to the said document. While she testified that she was present during the signing of the document, her lone testimony is not sufficient to prove authenticity. She also appeared to be confused and could not remember most of the details surrounding the execution of the said document.

While the document is already ancient and more than 30 years old, still its authenticity has to be proven by the petitioner. This is because on the face of the document, the signatures found therein appear to be suspicious since the signature of Rufino Duhaylungsod, Bonifacia Duahylungsod and Cristina Duhaylungsod appear to be written by one and the same person. The petitioner did not present any proof of the genuineness of the signatures found therein by presenting a comparison of their signatures with other documents found to be genuine. Thus, this court is not satisfied that the document is indeed authentic and genuine.

At any rate, the personal agreement under the law can no longer enforce any rights. This is because actions on the basis of the said document has long prescribed not having been acted upon nor enforced by the petitioner within ten (10) years from the date of its execution.

As to the extrajudicial partition presented for approval, the same is found to be defective on the following grounds:

First, it appears that some of the signatories therein are not heirs of the registered owners of the subject parcels of land since some of the heirs have already sold their shares to third persons. These third persons have no personality to adjudicate among themselves the respective shares of registered owners since they are not heirs.

Second, the heirs who have already sold their shares have no personality to enter into an extrajudicial partition since they have nothing to partition considering that they have already sold their shares.

Finally, not all of the registered owners were duly represented in the instant petition considering that not all of the heirs were included in the extrajudicial partition document. The petitioner alone cannot represent the rest of

the heirs in the absence of any proof that she was authorized to file this petition by all the signatories of the deed of extrajudicial partition.

The court also observed several supporting documents that are lacking, such as no confirmation, no special power of attorney and some parties have no signatures. This fact was duly observed by the City prosecutor Rodolfo Buaya who represents the estate.[11]

In the present appeal, appellant insists that the “Personal Agreement” between Bonifacia Duhaylungsod and her siblings “although not notarized before Notary Public is binding among their heirs and/or successors-in-interest.” Citing statutory and case law, appellant argues that the Civil Code requirements for formalities in certain contracts are merely for convenience to affect third parties but do not affect the validity of such contracts.[12]

Appellant misses the point of the denial of her petition. The trial court did not deny her petition in view of any formal lapses in the said “Personal Agreement” between Bonifacia Duhaylungsod and her siblings. The trial court denied her petition because of petitioner’s failure to authenticate the said agreement. Indeed, the “Personal Agreement” is not one of those contracts which the Civil Code or any other statute requires to be in a public instrument to be valid. But precisely because the said agreement is not in a public instrument, its authentication is imperative.

Rule 132, Section 19, of the Rules of Court provides:

SECTION 19. Classes of documents. — For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledged before a notary public except last wills and testaments; and
- (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

Undoubtedly, the “Personal Agreement” between Bonifacia Duhaylungsod and her siblings is a private writing. Had the said agreement been duly notarized, it would have enjoyed the presumption of authenticity and due execution. Rule 132, Section 30, of the Rules of Court provides:

SECTION 30. Proof of notarial documents. — Every instrument duly acknowledged or proved and certified as provided by law, may be presented in evidence without further proof, the certificate of acknowledgment being prima facie evidence of the execution of the instrument or document involved.

But, as a private document, its due execution and authenticity must be proved. This is provided for by Rule 132, Section 20 –

SECTION 20. Proof of private document. — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

The burden of establishing the authenticity and due execution of the “Personal Agreement” lay with appellant.

Testimonial evidence was admissible to establish these matters. Unfortunately for appellant, her testimony and that of Helen Ogoc Edrosolano were found wanting by the trial court. There is no reason for this Court to overturn the lower court's findings on this score: it is not denied that appellant was neither a signatory nor a instrumental witness to the agreement. Moreover, her uncorroborated testimony on this point is riddled with vagueness and confusion and memory lapses.

This Court in fact doubts if appellant was even present at the supposed execution of the agreement. This is a matter involving the credibility of appellant as a witness. It is hornbook doctrine that findings of fact of trial courts are entitled to great weight and should not be disturbed except for strong and valid reasons because the trial court is in a better position to examine the demeanor of the witnesses while testifying. Trial court judges enjoy the unique opportunity of observing the deportment of witnesses on the stand, a vantage point denied appellate tribunals.[13]

An exception to the need to authenticate a private document is laid down in Rule 132, Section 21. Thus –

SECTION 21. When evidence of authenticity of private document not necessary. — Where a private document is more than thirty years old, is produced from a custody in which it would naturally be found if genuine, and is unblemished by any alterations or circumstances of suspicion, no other evidence of its authenticity need be given.

The “Private Agreement”, however, fails to qualify as an “ancient document” excepted from the Rule set forth in aforecited Rule-and-Section.. This is so because, as found by the lower court, “the signatures found therein appear to be suspicious since the signature of Rufino Duhaylungsod, Bonifacia Duhaylungsod and Cristina Duhaylungsod appear to be written by one and the same person”. Thus, it cannot be said that the agreement was “unblemished by and alteration or circumstance of suspicion”.

Thus, the Court sustains the findings of the trial court that appellant has failed to establish the authenticity and due execution of the “Personal Agreement” between Bonifacia Duhaylungsod and her siblings. The Court notes that, in this appeal, appellant has not assailed or challenged the findings of the trial court on the extrajudicial partition between appellants and her supposed co-heirs.

ACCORDINGLY, the appeal is DISMISSED. The Order herein assailed is AFFIRMED in toto.

SO ORDERED.

Francisco and Badelles, JJ., concur.

[1] Rollo, pp. 22-25.

[2] Petition; Records, pp. 1 – 3.

[3] Records, p. 21.

[4] Records, p. 22 – 23.

[5] Note 1, supra.

[6] Id.

[7] Records, p. 25.

[8] Note 1, supra.

[9] Appellant's Brief; Rollo, pp. 10-20.

[10] Note 1, *supra*.

[11] *Id.*

[12] Appellant's Brief, *supra*, pp. 19-20.

[13] *Chan v. Chan*, G.R. No. 150746, October 15, 2008.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.