

JULIANA CALONGCAGONG ROSARIO, PLAINTIFF-APPELLEE, VS. SPOUSES SERGIO ESTERO AND IMELDA ANCHETA ESTERO, SPOUSES RODOLFO C. RODRIGUEZ AND EVANGELINE E. RODRIGUEZ, AND ELIDINE ESTE...

Ponente: ZALAMEDA, R.V., J.

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ZALAMEDA, R.V., J.:

This is an Appeal[1] filed by defendant-appellant spouses Rodolfo C. Rodriguez and Evangeline E. Rodriguez, on the Decision[2] rendered by Branch 40, Regional Trial Court of Dagupan City,[3] in Civil Case No. 97-02028-D entitled, “Juliana Calongcagong Rosario, Plaintiff, vs. Spouses Sergio Estero, Imelda Ancheta Estero, Spouses Rodolfo C. Rodriguez and Evangeline E. Rodriguez and Elidine Estero, Defendants,” for Declaration of Nullity of Documents, Ownership, Possession and Damages, with Prayer for the Issuance of a Temporary Restraining Order and Writ of Preliminary Mandatory Injunction.

The facts of the case, as culled from the records, are as follows:

Plaintiff-appellee Juliana Calongcagong[4] filed a Complaint[5] against spouses Sergio Estero and Imelda Ancheta Estero,[6] Elidine Estero, and defendant-appellant spouses Rodolfo Rodriguez and Evangeline Rodriguez.[7] In her Complaint, plaintiff-appellee averred that she is the absolute owner and lawful possessor of two (2) parcels of tobacco land in San Jose, San Jacinto, Pangasinan, to wit:

“X x x

1. With an area of 2410 square meters, more or less; bounded on the North by Paulino Fernandez; on the East by Maximo Calpo; on the South and West by Maximo Calpo and Gonzalo Sandoval; declared under T.D. No. 3035 and assessed at P3,180.00 for the current year. Not registered under Act 496 as amended by PD No. 1529.

2. With an area of 2861 square meters, more or less; bounded on the North by the declarant; on the East by Luis Calpito and Zanja; on the South by Maria Mendoza and Luis Calpito; and on the West by Gonzalo Sandoval and Maria Mendoza; declared under T.D. No. 3034 and assessed at P3780.00 for the current year. Not registered under Act 496 as amended by P.D. No. 1529.

X x x”[8]

According to plaintiff-appellee, she acquired the said properties through inheritance from her late father, Hilario Calongcagong[9] by virtue of a Deed of Extra-Judicial Partition with Renunciation of Rights[10] executed in 1997. However, sometime in October 1997, she received a subpoena from the Office of the Provincial Prosecutor of Dagupan City, requiring her to submit a counter-affidavit on the charges for estafa separately filed by spouses Estero, spouses Rodriguez, and Elidine Estero, for alleged double sale of the aforecited lands to them. The charges for estafa were based on two (2) separate deeds of absolute sale; first, the Affidavit of Self Adjudication with Absolute Sale[11] dated 31 December 1993, and second, the Deed of Absolute Sale of Unregistered

Land[12] dated 16 July 1997, on the same properties, allegedly executed by plaintiff-appellee in favor of spouses Estero and spouses Rodriguez.

Plaintiff-appellee maintained that the said deeds of sale were forged as she never entered into any contract of sale over the said properties. Neither did she appear before the notaries public who apparently administered oath on the said documents. According to plaintiff-appellee, she had no capacity to sell the said properties at the time of their alleged conveyance; the properties being still under the name of her deceased father, Hilario, who was survived by three (3) children, Pacita, Maximo and plaintiff-appellee herself.

The parties being relatives, plaintiff-appellee referred the matter to the barangay to no avail. Thereafter, spouses Estero proceeded to take possession of the said properties through the aid of armed men and began constructing a residential house thereon. Thus, plaintiff-appellee prayed in her Complaint that both deeds of sale be declared void ab initio and likewise, she be declared the absolute owner and possessor of the subject lots. Further, she prayed for the issuance of an injunctive writ and for the payment of damages and attorney's fees.

The RTC granted the prayer for the issuance of a temporary restraining order on 11 December 1997.[13]

In the meantime, the defendants filed their respective Answer to the Complaint. According to defendant-appellant spouses Rodriguez, the Complaint was filed as a mere leverage to the criminal case for estafa filed against plaintiff-appellee. They maintained that the notarized deeds of sale enjoy the presumption of regularity in the due execution and validity of the same. Further, there was no referral to the barangay; neither was there forcible entry into the said properties as claimed. As counterclaim, spouses Rodriguez asked the payment of attorney's fees and damages.[14]

Spouses Estero similarly denied the allegations against them and raised the same defenses as those of spouses Rodriguez. They likewise claimed for the payment of damages and attorney's fees.[15]

On 24 December 1997, the RTC denied the prayer for the issuance of a preliminary injunction as it appears that the subject properties were already sold by the plaintiff-appellee, and thus, according to the court, had no more right to be protected under the premises.[16]

Pre-trial ensued and the parties submitted their respective Pre-Trial Briefs. The pre-trial conference was ordered terminated on 16 March 1998.[17]

During trial, the parties presented their respective witnesses.

Witness for plaintiff-appellee, Zorayda Costales, the Assistant Municipal Treasurer of San Jacinto, Pangasinan, testified that her office had no record of the community tax certificates issued in the name of plaintiff-appellee; one on 09 January 1993 and the other on 09 July 1997, both bearing the same number #16355554, which appears on the subject deeds.[18] On the other hand, Joan Junio, from the Office of the Register of Deeds of Lingayen, Pangasinan, presented in court the "1993" deed of sale, denominated as Doc. No. 1696, Page No. 340, Book No. IV, Series of 1993 of the Notarial Register of Atty. Felipe V. Abenojar, Notary Public for Urdaneta, Pangasinan.[19]

Next to be presented was plaintiff-appellee herself. She testified having inherited the subject properties from her father, Hilario, through a Deed of Extrajudicial Partition with Renunciation of Rights[20] dated 30 July 1997 she executed with her sister Pacita and niece Glory, in representation of his deceased brother Maximo;[21] with her siblings renouncing their rights over the properties in her favor. She claimed having declared the subject properties covered by the said extra-judicial partition for taxation purposes for the years 1998 and 1999.[22] From the year 1966, plaintiff-appellee testified that she also paid the real estate taxes thereon. However, when asked to

show proof thereof, she answered that defendant Imelda Ancheta Estero,[23] her niece, paid the real estate taxes, among others. Apparently, the administration over the said properties were entrusted to plaintiff-appellee by her sister, Pacita, but since plaintiff-appellee was busy, she likewise turned-over the administration thereof to Imelda a few years after 18 February 1963, the death of her father.[24]

Juanita Tuliao,[25] on the other hand, claimed that she was plaintiff-appellee's tenant, responsible for tilling the properties from 1974 up to the time she testified in 1999. On 24 November 1997, defendant Sergio Estero[26] entered the properties and constructed a house thereon, thus, she went to the barangay and the police to report the incident. Tuliao further claimed that she used to send plaintiff-appellee's share of the crops through defendant Sergio until the two (2) had a misunderstanding.[27] On cross, said witness admitted having agreed to Estero's construction of the house as reflected in a document signed before the officer of the Municipal Agrarian Reform Office but claimed that the execution thereof was premised on Sergio's false pretenses. Apparently, Sergio told her that he already bought the properties in 1997.[28]

After plaintiff-appellee's witnesses, the defendants proceeded to present Sergio who testified that in 1958, plaintiff-appellee sold to him the subject properties for Php 600.00 but they did not execute any document, being relatives. Sergio said he bought the subject lands in 1958 when Hilario was still alive. In 1993, plaintiff-appellee sold to him the said properties again and this time, executed the "1933" deed of sale on 31 December 1993.

From 1958 up to 1966, Sergio claimed that he had a tenant, Ferdinand Lomibao, and from 1966 to 1974, he started tilling the lands himself. However, from 1974 up to the present, Juanita Tuliao, installed as tenant by plaintiff-appellee, tilled the lands herself. On 31 January 2001, however, Tuliao entered into a leasehold contract with him.[29]

Sergio admitted during cross examination that defendant- appellant Evangeline Rodriguez is his daughter, and while the Affidavit of Adjudication with Absolute Sale was entered into in 1993, it was only in 1997 that the same was registered.

The testimony of Atty. Felipe Abenojar, the lawyer who notarized the 1993 deed of sale, was obtained through a deposition. He claimed that the signature of plaintiff-appellee, as appearing on the said instrument, is genuine. He maintained that before affixing his signature thereon, plaintiff-appellee appeared before him, read the contents and explained the instrument to her. Only thereafter did plaintiff-appellee sign the instrument.[30]

On the other hand, Atty. Gonzalo de Jesus, former counsel for defendant-appellant spouses Rodriguez, testified that he notarized the "1997" deed of sale likewise executed by plaintiff-appellee, who personally appeared before him to sign the same in favor of spouses Rodriguez and who represented to be the owner of the subject properties.[31] One of the witnesses to the said deed, Corazon Sampaga, was even presented by the defendants to corroborate on the matters testified to by Atty. de Jesus.[32]

Defendant-appellant Rodolfo Rodriguez likewise took the witness stand. According to him, plaintiff-appellee is the sister of his wife's grandmother. In July 1997, plaintiff-appellee visited their home and offered for sale the subject property. He and Elidine Estero agreed to buy the same for five thousand (Php 5,000.00) pesos, and was personally present at the office of Atty. de Jesus when the "1997" deed of sale was signed by plaintiff-appellee. It was only when he visited the properties that he found the same to have been sold earlier to his father-in-law, Sergio. He confronted plaintiff-appellee about it, the latter just told him to return the original copy of their deed of sale. After nothing happened on their talks for settlement, he filed an estafa case against plaintiff-appellee.[33]

On 19 September 2009, counsel for plaintiff-appellee filed a Motion for Substitution claiming that plaintiff-appellee died on 16 September 2009 and praying that the named heirs therein be substituted as

plaintiffs.[34] The said Motion was granted by the RTC on 04 February 2010.[35]

After trial, the RTC rendered the assailed Decision in favor of plaintiff-appellee, substituted by her heirs. The dispositive portion of the assailed Decision reads:

“X x x

WHEREFORE, premises considered judgment is hereby rendered:

- Declaring the Deed of Self-Adjudication with Absolute Sale and the Deed of Sale of Unregistered Land to be both invalid and void ab initio;
- Declaring Juliana Calongcagong or her substituted plaintiffs to be the owner/s and legal possessor/s of the subject parcels of land;
- Ordering all of the defendants to pay to Plaintiff Juliana Calongcagong or her substituted plaintiffs, jointly and severally, the amounts of Php100,000.00 for Attorney’s fees, with moral damages and Php100,000.00 for expenses for actual litigation; and
- Ordering defendants sps. Sergio Estero and Imelda Ancheta Estero their agents, representatives and any and all persons acting under them to vacate the premises of the subject lands, removing any and all improvements they may have introduced therein, accordingly.

SO ORDERED.

X x x”[36]

Only the spouses Rodriguez filed a Notice of Appeal[37] and the same was given due course by the RTC through an Order[38] dated 01 September 2011. Hence, the present Appeal.

In their Brief,[39] Spouses Rodriguez raises the following assignment of errors:

(A)

THE DECISION OF THE TRIAL COURT IS NULL AND VOID FOR FAILURE TO STATE THE LAW ON WHICH ITS FINDINGS OF FACTS ARE BASED AS REQUIRED IN SECTION I, RULE 36 OF THE 1997 RULES OF CIVIL PROCEDURE

(B)

THE TRIAL COURT ERRED IN APPRECIATING THE EVIDENCE IN FAVOR OF THE PLAINTIFF-APPELLEE, IN RULING THAT THE DEED OF SELF ADJUDICATION WITH SALE AND THE DEED OF ABSOLUTE SALE OF UNREGISTERED LAND ARE BOTH INVALID AND VOID AB INITIO

(C)

THE TRIAL COURT ERRED IN DECLARING THE PLAINTIFF OR HER SUBSTITUTED PLAINTIFFS TO BE THE OWNERS AND LEGAL POSSESSIONS (sic) OF THE SUBJECT PARCELS OF LAND

(D)

THE TRIAL COURT ERRED IN AWARDING PLAINTIFF-APPELLEE P100,000.00 FOR ATTORNEY’S FEES, P100,000.00 FOR MORAL DAMAGES AND P100,000.00 FOR LITIGATION EXPENSES

(E)

THE TRIAL COURT ERRED IN ORDERING DEFENDANTS-APPELLANTS AND ALL PERSONS

ACTING UNDER THEM TO VACATE THE PREMISES OF THE SUBJECT LANDS AND TO REMOVE ALL IMPROVEMENTS INTRODUCED THEREIN[40]

We required the substituted heirs, through counsel, to file their Appellee's Brief. However, the substituted heirs failed to comply with the Court's directive. Thus, the Appeal was submitted for decision sans the Appellee's Brief.[41]

The assignment of errors may be summarized into two: first, whether or not the trial court erred in ruling that the subject documents are void ab initio; and second, whether or not the trial court erred in awarding damages and attorney's fees.

According to defendant-appellant spouses Rodriguez, the trial court decided the case in favor of plaintiff-appellee without specifying the legal basis therefor. Further, they insist that the subject documents, the "1993" and "1997" deeds of sale executed by plaintiff-appellee enjoy the presumption of validity as both are notarized documents.

We have perused the assailed decision and contrary to spouses Rodriguez' claim, the RTC was able to lay the legal basis for deciding the case in favor of plaintiff-appellee, substituted by her heirs. It was premised on Article 1458 of the Civil Code, and an explanation thereof was quoted as thus:

"X x x

The matter is well-explained in Civil Code of the Philippines Annotated, Fourteenth Edition, Volume Five, p. 14, by Edgardo L. Paras:

"(3) Transfer of Ownership

(a)

It is essential for a seller to transfer ownership (Art. 1458) and, therefore, the seller must be the owner of the subject sold. This stems from the principle that nobody can dispose of that which does not belong to him – nemo dat quad non habet. (Azcona vs. Reyes and Larracas, 59 Phil. 446, see also Coronel vs. Ona, 33 Phil. 456)."

X x x"[42]

Nonetheless, We agree with spouses Rodriguez that the trial court's findings of fact and application of the law are wanting.

The main thrust of plaintiff-appellee's complaint for declaration of nullity of documents is forgery.

As a general rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence. The burden of proof lies on the party alleging forgery.[43] Plaintiff-appellee failed to substantiate her allegation of forgery. The only evidence was her testimony denying having appeared before the named notaries public to sign the subject documents.

During the hearing, plaintiff-appellee testified, thus:

"X x x

q

Now, I have here an affidavit of alleged Adjudication and Absolute Sale allegedly executed by one Juliana Calongcagong in favor of Sps. Sergio Estero and Imelda Ancheta, will you tell this Honorable Court if that copy is the same that you have verified in the Register of Deeds?

a

That is the one, sir.

q

In this document is a signature Juliana Calongcagong, do you know if that is your signature?

a

This is not my signature, sir.

q

If it is stated herein Madam witness that you are the only heir of one Hilario Calongcagong, what can you say to that?

a

We are three (3), sir.

q

Who are these three (3) heirs of Hilario Calongcagong?

a

Pacita Calongcagong, Maximo Calongcagong and myself, sir.

q

It likewise appears in this document that after you adjudicated this land appearing herein you sold the same to Spouses Sergio Estero and Imelda Ancheta, what can you say to that?

a

I did not sell any of my land, sir.

q

It appears that you allegedly received P1,500.00 in consideration?

a

I did not receive any amount, sir.

q

Do you know one by the name of Felipe Abenojar?

a

I do not know that Felipe Abenojar ,sir.

q

It appears in this document that you allegedly personally appeared before Felipe Abenojar and you acknowledge this Deed of Adjudication of Absolute Sale, was you[r] o[w]n free act and voluntary deed?

q

I never appeared before that lawyer, and I do not even know him, sir.

X x x

q

Madam Witness, why are you also suing Rodolfo Rodriguez, Evangeline Rodriguez and Elydine Estero?

a

I want to pray to this Court that the document shall be cancelled because I did not sell any documents to them, sir.

q

You referred a document, I am showing you a document is this the one you want to be cancelled to this Honorable Court?

a

Yes, sir.

X x x

q

In this Deed of Absolute Sale of unregistered land marked as Exhibit T appears also a signature above the typewritten name Juliana Calongcagong which reads are Juliana Rosario, will you see and tell this Honorable Court if you know that signature?

a

This is not my signature, sir.

q

It appears also in this document that you received P5,000.00 as payment or consideration for the land you sold to Evangeline Rodriguez married to Rodolfo Rodriguez and Elidine Estero, what can you say to that?

a

I did not receive any amount, sir.

q

It appears also in this document that you personally appeared to one Atty. Gonzalo L. de Jesus, and you acknowledged that this document was your own free act and voluntary deed?

a

I never appeared before this lawyer and I even do not know the lawyer, sir.

X x x"[44] [Emphasis supplied]

However, the testimony of the plaintiff-appellee was debunked by the lawyers who notarized the documents.

Atty. de Jesus, who notarized the "1997" deed of sale testified, thus:

"X x x

q

Mr. witness, are you commissioned to notarize in 1997?

a

I believe so, ma'am.

q

And can you tell the Honorable Court your territorial jurisdiction in 1997?

a

Within the first region in Pangasinan, ma'am.

q

Namely, Mr. witness?

a

San Jacinto, Mangaldan, San Fabian and Dagupan, ma'am.

q

Now, Do you recall having notarized a deed of sale executed by a certain Julia Calongcagong?

a

Yes, if I am shown a document, ma'am.

q

I am showing to you a document dated July 16, 1997, denominated as deed of absolute sale of unregistered land, with signatories. I am presenting it to you now in order to give you time to recall the incident of this document?

a

Yes, Your Honor, I still recall that I am the one who notarized this, ma'am.

q

There is a signature below above the typewritten name Atty. Gonzalo L. de Jesus, do you know whose signature is that?

a

This is my signature, ma'am.

q

How about the other signatures appearing on the face of the document, can you tell the Honorable Court whose signatures are these?

a

The vendor Julia Calongcagong and the other one at the left margin is Pacita Calongcagong and two (2) witnesses Rubrica and Sampaga, ma'am.

q

Was this entered in your notarial book?

a

Yes, it is entered in my notarial book under Doc. No. 906; Page No. 185; Book No. II; and my commission expired December 31, 1997, ma'am.

q

And would you care to tell the Honorable Court where was this document subscribed?

a

Before me in front of Municipal town hall, ma'am.

q

What municipality?

a

Of San Jacinto, Pangasinan, old office, ma'am.

X x x

q

You said that the vendor appeared personally before you?

a

Yes ma'am.

q

If you can see that the same vendor who appeared before you, will you be able to identify her?

a

Yes, if she is around, ma'am.

q

Are you saying that she is not around?

a

I am trying to look around inside and outside the courtroom but I could not see her, ma'am.

ATTY. CABRERA

That will be all.”[45]

Atty. Abenojar, who notarized the “1993” deed of sale, during his deposition, testified that:

“X x x

Q

Now, Mr. Witness do you recall having notarized a particular document entitled Affidavit of Self Adjudication

with Absolute Sale dated December 31, 1993?

A

If you can show me the document then I can recall whether I have notarized the same based on my signature appearing thereat as the Notary Public.

Q

I am showing to you a copy of the Affidavit, will you please go over the same and tell us if you have notarized the said document?

A

This is my genuine signature, sir. Witness pointed to a signature over the typewritten name Felipe V. Abenojar Notary Public as his genuine signature.

Q

Mr. Witness, there is also a signature over the typewritten name Julia Calongcagong which was earlier marked as Exh. 3-a, will you please go over this signature and tell us if that is the signature of Julia Calongcagong.

A

Yes, that is her signature because before I affixed my signature as the Notary Public, the affiant appear before me, I read the contents and explain to them after they sign their signature in my presence, sir.

X x x"[46]

While on cross, Atty. de Jesus admitted that he was Evangeline Rodriguez' lawyer before, and his testimony may be viewed as favorable to the interest of defendants. Corazon Sampaga, one of the two (2) witnesses to the "1997" deed of sale, testified that she was present at the office of Atty. de Jesus when the said deed was notarized and plaintiff-appellee was likewise present thereat to affix her signature:

"X x x

q

Will you tell us if you have occasion meeting these people sometime on July 16, 1997?

a

I saw them in the Office of Atty. Gonzalo de Jesus when I went to his Office to let an affidavit be prepared.

q

Where is the office of Atty. de Jesus?

a

Infront of the Municipal Hall of San Jacinto.

q

When you said, you saw them in the Office of Atty. Gonzalo de Jesus. Who are these people that you saw?

a

What I saw are Rodolfo, Nana Pacita, Nana Julia, Elena and Atty. de Jesus.

q

When you said “Nana Julia”, do you refer to Juliana Calongcagong Rosario?

a

Yes, she’s the same person.

q

How about Nana Pacita, do you refer to Pacita Calongcagong?

a

Yes, she is the sister of Julia.

q

Do you know why they were there at the Office of Atty. Gonzalo de Jesus together with Rodolfo Rodriguez, Mrs. Rodriguez and Elena? Do you know why they were there?

a

When I was there, I saw a document being prepared which is a deed of sale of lot being sold by Nana Julia.

q

In whose favor is that property being sold by Nana Julia?

a

To Rodolfo and Eleden.

q

Aside from knowing that they were there to execute a deed of sale over the property of Julia Calongcagong infavor of Rodolfo and Eleden Rodriguez, what else did they do which you said while they were there?

a

I also saw the signing of the document by Nana Julia, Rodolfo Rodriguez and another witness, Elena. But because one witness is lacking, they called me to be a witness, anyway I know the parties and I also saw the handling of the money to Nana Julia.

q

Who handed the money to Nana Julia?

a

Rodolfo.

q

Do you know how much money was handed to Nana Julia?

a

When she was counting it, it was P5,000.00.

q

What did Julia Calongcagong do with the money after she received i[t] from Rodolfo Rodriguez?

a

She counted the money, affixed her signature and placed it in her pocket and then left the office.

q

Aside from you, who are the persons who saw her signed and accept the money?

a

Elena and myself, ma'm.

q

Who else?

a

Pacita, her sister.

q

Who else?

a

Atty. de Jesus.

q

You mentioned to this Honorable Court that you were asked to stand as witness to the executed deed of sale. If you will see that document again which you signed as a witness, will you be able to identify it?

a

Yes, because I know what I signed.

q

I would show you a deed of sale, will you examine this document and tell the Honorable Court if this is the same document which you were asked to sign as a witness?

a

Yes ma'm.

q

Where is your signature there?

a

Here sir (witness points to Exhibit 1-C).

q

How about the signature of Juliana Calongcagong, where is it?

a

Here (witness points to Exhibit 1-A).

q

Why do you say that this is the signature of Julia Calongcagong Rosario?

a

I was there when she affixed her signature.

q

What about the signature above the signature Pacita Calongcagong, whose signature is that?

a

Her sister Pacita, ma'm.

q

And this one at the left side of the document below the notation signed in the presence of?

a

That is the signature of Elena Lobregat.

q

Why do you say that that's the signature of Pacita and this one is Elena?

a

I was there when they affixed their signatures.

q

And lastly, do you know this signature atop the typewritten name Gonzalo de Jesus?

a

This is the signature of Atty. Gonzalo de Jesus.

q

Why do you know that?

a

I was also there when he affixed his signature.

X x x.”[47]

It must be stressed that the subject “1993” and “1997” deeds of sale are notarized documents. And as such, they carry evidentiary weight conferred upon them with respect to their due execution and likewise enjoy the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing, as to exclude all controversy on its falsity.[48] As between the bare allegation of the plaintiff-appellee that she did not sign the said documents, and the positive and categorical testimonies of the notaries public who notarized the same and one of the witnesses thereof, the presumption of validity and regularity must be upheld over plaintiff-appellee's claim of forgery.

A comparison of the subject instruments shows that plaintiff-appellee's names and signatures differ thereon. In the "1993" deed of sale, plaintiff-appellee's name appears as "Julia Calongcagong" and her signature matches the name.[49] In the "1997" deed of sale, plaintiff-appellee's name appears as "Julia C. Rosario" and her signature reads as "Juliana C. Rosario." In her Complaint, plaintiff-appellee's name is shown as "Juliana Calongcagong" and her signature likewise matches her stated name. While on the witness stand, she claimed her full name to be Juliana Calongcagong Rosario, being married to a certain Mr. Rosario. Neither party explained the apparent discrepancy in the names and signatures used in the said instruments.

Even if We take into consideration the discrepancies noted, a casual look on the signatures shows that while the names varied, the material strokes remain similar. So much so that the first "C" in Calongcagong in plaintiff-appellee's signature as affixed in her Complaint perfectly matches the same "C" on her signature as appearing in both instruments. And the strokes of the "Calongcagong" signature on the "1993" deed of sale are strikingly similar to how plaintiff-appellee signed her Complaint. Thus, to rule that there was indeed forgery, solely on the ground that the plaintiff-appellee's name and signature vary, cannot be sustained. After all, mere variance of the signatures cannot be considered as conclusive proof that the same were forged.[50] And, it is not unlikely that a woman may use both her maiden and married names in referring to herself.

In any event, plaintiff-appellee could have harped on the same but she did not. She could have utilized a handwriting expert to advance her cause that her signatures were forged. However, she failed to do so. Again, in the absence of clear, strong and convincing evidence to exclude all controversy as to falsity, We are inclined to uphold the presumption of regularity in the execution and validity of the questioned deeds.

The RTC, in ruling favorably for the plaintiff-appellee, maintained that the latter cannot legally sell something which she did not own at the time of the alleged execution of the subject instruments. Further, the parties are relatives, Sergio, the first buyer, being the father-in-law of Rodolfo, the second buyer. From these, the trial court concluded that: (1) plaintiff-appellee could not have sold a property she did not exclusively own; (2) that it was highly unlikely that the first and second buyers, being relatives, did not know that they bought the same parcels of lands from the same seller.

It may be true that the parties are bound by close blood relationship, but it is also plausible for one not to know the properties owned by their respective relatives. After all, Rodolfo testified that he and his wife were living abroad before the "1997" deed of sale was executed.

We must emphasize that during trial, plaintiff-appellee stated that she was paying real estate taxes on the property prior to 1998. However, when asked if she could show proof of her payments, she answered that it was Imelda Ancheta, the wife of Sergio, who was paying real property taxes on the subject properties because of their agreement:

"X x x

q

Now, Madam witness, from that time you inherited the said two (2) parcels of land from your father, did you ever pay the corresponding real property tax?

a

Yes sir.

q

And you have been paying real property taxes in, you began paying the real property taxes in 1998?

a

Yes sir.

q

How about prior to 1998, sometime in the year 1996, who was been paying the real property taxes?

a

I was the one, sir.

q

In 1996, you very sure of that, Madam witness?

a

Yes sir.

q

Do you have any proof to show that you have been paying the real property taxes in 1966?

a

Imelda Ancheta and I had an agreement that she will shoulder the taxes, the fertilizer and the irrigation and then she will deliver to me two (2) sacks of rice and the remaining will be her own for her services, sir.

q

And that agreement with Imelda Ancheta is still existing up to the present, Madam witness?

a

Yes sir.

X x x"[51] [Emphasis supplied]

Records show that the tax receipts for the said properties were issued in the name of Sergio Estero, husband of Imelda Ancheta, for the years 1974, 1999, and 2001.[52] And a certification from the Office of the Municipal Assessor shows that real property taxes were paid by Sergio Estero since the year 1996.[53] It has been consistently ruled that tax receipts and declarations of ownership for taxation purposes are strong evidence of ownership. While they are not conclusive evidence, they are good indicia of possession in the concept of owner, for no one in his right mind will pay taxes for a property not in his actual possession.[54] This further strengthens spouses Estero's claim that indeed, the subject properties were sold to them. Thus, the subject "1993" deed of sale was not likely to have been forged.

It would have been a different matter if no evidence was presented by the parties, or if the evidence presented did not sustain the parties' respective claims and defenses. However, on record, plaintiff-appellee failed to prove her claim of forgery while the defendants-appellants were able to show that the subject deeds were signed personally by the plaintiff-appellee herself. Preponderance of evidence tilts in favor of the defendants. Thus, the trial court's conclusion merely based on its opinions on the matter, without regard to the evidence presented, must be struck down.

Finally, moral damages are only awarded if the basis therefore is duly established.[55] And attorney's fees are only granted if there is factual, legal and equitable justification.[56] Thus, as a necessary consequence of

plaintiff's-appellee's failure to establish her case by preponderance of evidence, the award of moral damages, litigation expenses and attorney's fees must be struck down.

WHEREFORE, in view of the foregoing, the instant Appeal is GRANTED. Accordingly, the assailed Decision dated 31 May 2011 is REVERSED and SET ASIDE, and Complaint dated 05 December 1997 is hereby DISMISSED.

SO ORDERED.

Bato, Jr., R.M., (Chairperson) and Sempio Diy, M.E., JJ., concur.

[1] Rollo, pages 48 to 64.

[2] Id. at 70 to 85.

[3] "RTC," for brevity.

[4] "Plaintiff-appellee," for brevity.

[5] Records, pages 01 to 05.

[6] "Spouses Estero," for brevity.

[7] "Spouses Rodriguez," for brevity.

[8] Rollo, page 01.

[9] "Hilario," for brevity.

[10] Records, Vol. II, Exh. "N."

[11] Records, page 422; "1993" deed of sale, for brevity.

[12] Id. at 419; "1996" deed of sale, for brevity.

[13] Id. at 20 to 22.

[14] Id. at 23 to 27, Answer.

[15] Id. at 29 to 34.

[16] Id. at 35, Order.

[17] Id. at 46.

[18] TSN dated 25 June 1998 and 10 July 1998; Records, page 234.

[19] TSN dated 16 February 1999; see also Records, pages 422 to 423.

[20] Records, Vol. II, Envelope of Exhibits, Exh. "N".

[21] TSN dated 12 April 1999.

[22] TSN dated 12 October 1999.

[23] "Imelda," for brevity.

[24] TSN dated 09 February 2000, pages 10 to 16.

- [25] “Tuliao,” for brevity.
- [26] “Sergio,” for brevity.
- [27] TSN dated 05 December 1999.
- [28] TSN dated 05 January 2001.
- [29] TSN dated 13 June 2002.
- [30] TSN dated 21 October 2003.
- [31] TSN dated 12 May 2005.
- [32] TSN dated 09 March 2006.
- [33] TSN dated 13 February 2008.
- [34] Records, page 88; Order dated 10 January 2010.
- [35] Id. at 391.
- [36] Rollo, page 85.
- [37] Records, page 462.
- [38] Id. page 466.
- [39] Rollo, pages 48 to 66.
- [40] Rollo, pages 50 to 51.
- [41] Id. at 93.
- [42] Rollo, pages 75 to 76.
- [43] Laura and Eriberto Bautista vs. Court of Appeals, G.R. No. 158015, 11 August 2004.
- [44] TSN dated 23 November 1999, pages 04 to 11.
- [45] TSN dated 12 May 2005, pages 06 to 12.
- [46] Records, pages 248 to 249.
- [47] TSN dated 09 March 2006.
- [48] Soledad E. Dizon, et al. vs. Rodrigo G. Tuazon, et al., G.R. No. 172167, 09 July 2008.
- [49] Records, page 422.
- [50] Spouses Alfaro vs. Court of Appeals, G.R. No. 162864, 28 March 2007.
- [51] TSN dated 09 February 2000, pages 05 to 06.
- [52] Records, pages 236 to 243.
- [53] Id. at 244.
- [54] See G.R. No. 13076, 31 January 2002.
- [55] See G.R. No. 154427, 08 May 2009.

[56] Id.

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