

**NELIA A. CONSTANTINO, PETITIONER, VS. COURT OF APPEALS,
AURORA S. ROQUE, PRISCILLA S. LUNA AND JOSEFINA S. AUSTRIA,
RESPONDENTS.***G.R. No. 116018. November 13, 1996*

Ponente: BELLOSILLO, J.

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JOSEFA TORRES died intestate leaving a parcel of land located at Balagtas, Bulacan. Among her heirs are respondents Aurora S. Roque, Priscilla S. Luna and Josefina S. Austria. Sometime in 1984, the heirs of Josefa Torres, as vendors, and petitioner Nelia A. Constantino, as vendee, entered into a contract to sell a parcel of land with a total land area of two hundred and fifty (250) square meters. The lot, owned in common by the Torres heirs, is being occupied by petitioners' mother and sister. An adjoining lot, also co-owned by the heirs, is being occupied by spouses Severino and Consuelo Lim. Pursuant to their agreement, the heirs authorized petitioner to prepare the necessary Deed of Extrajudicial Settlement of Estate with Sale.

After having the document drafted - with several spaces left blank including the specification as to the metes and bounds of the land - petitioner asked the heirs to affix their signatures on the document. The heirs signed the document with the understanding that respondent Aurora S. Roque, one of the heirs, would be present when the latter would seek permission from the Bureau of Lands and have the land surveyed.

However, without the participation of any of the Torres heirs, the property was subsequently surveyed, subdivided and then covered by TCT Nos. T-292265 and T-292266. Petitioner did not furnish the heirs with copies of the Deed of Extrajudicial Settlement of Estate with Sale nor of the subdivision plan and the certificates of title. Upon securing a copy of the deed from the Registry of Deeds, the respondents learned that the area of the property purportedly sold to petitioner was much bigger than that agreed upon by the parties. It already included the portion being occupied by the spouses Severino and Consuelo Lim.

On 2 June 1986, private respondents sent a letter to petitioner demanding the surrender to them of the deed of settlement and conveyance, the subdivision plan and the certificates of title; but to no avail. On 25 June 1986 respondents filed with the Regional Trial Court of Bulacan an action for annulment of the deed and cancellation of the certificates of title, with prayer for recovery of damages, attorney's fees and costs of suit.[1]

Petitioner controverted the allegations of respondents by presenting the Deed of Extrajudicial Settlement of Estate with Sale dated 10 October 1984 wherein respondents agreed to divide and adjudicate among themselves the inherited property with an area of one thousand five hundred and three (1,503) square meters. In the same document, they caused the subdivision of the property into two (2) lots according to Plan No. PSD-03-009105 identified as Lot 4-A with an area of one thousand ninety-six (1,096) square meters, and Lot 4-B with an area of four hundred and seven (407) square meters, and acknowledged the sale to petitioner of said Lot 4-B. As a consequence, on 18 March 1985, the Register of Deeds issued TCT No. T-292265 in the name of the heirs of Josefa Torres and TCT No. T-292266 in the name of petitioner.

In reply, private respondents reiterated that all the heirs signed the document before the land was surveyed and subdivided, hence, there was as yet no definite area to be sold that could be indicated in the deed at the time of the signing. They also claimed that they were not notified about the survey and the subdivision of the lot and therefore they could not have agreed on the area supposedly sold to petitioner. The respondent heirs insist that they could not have agreed to the extent of the area actually reflected in the deed because it included the portion being occupied by the Lim spouses, which was already the subject of a previous agreement to sell between them and their predecessor.

The trial court entertained serious doubts with respect to the preparation and due execution of the Deed of Extrajudicial Settlement of Estate with Sale taking into account that (a) while petitioner claimed that all the heirs signed before the notary public and in her presence, she was not able to enumerate all the signatories to the document; (b) while petitioner claimed that the document was signed only after the survey of the land was completed, or on 10 October 1984, such fact was negated by her own witness who testified that the survey was conducted only on 16 October 1984; and, (c) while petitioner alleged that the document was signed and notarized in Manila no explanation was offered why the same could not have been signed and notarized in Bulacan where notaries public abound which could have been less inconvenient to the parties concerned. Additionally, the trial court relied heavily on the assertions of respondents as reflected in their demand letter that they did not give their consent to the sale of Lot 4-B.

Thus, on the basis of the evidence on record, the trial court on 27 September 1990 ordered the annulment and cancellation of the Deed of Extrajudicial Settlement of Estate with Sale, TCT Nos. T-292265 and T-292266 and Subdivision Plan No. PSD-03-009105. It also ordered petitioner to pay private respondents P50,000.00 for moral damages, P15,000.00 for attorney's fees, and to pay the costs of suit.[2]

On 16 March 1994 respondent Court of Appeals sustained the decision of the trial court,[3] and on 20 June 1994 denied the motion to reconsider its decision.[4]

Petitioner faults respondent Court of Appeals: (a) for disregarding documentary evidence already presented, marked and identified on a purely technical ground, and (b) for concluding that the Deed of Extrajudicial Settlement of Estate with Sale did not reflect the true intent of the parties.

Petitioner argues that the trial court should not have denied her motion to admit formal offer of evidence merely on the basis of technicality such as late filing, citing *Siguenza v. Court of Appeals*.^[5] We are not persuaded. Indeed, we held in *Siguenza* that rules of procedure are not to be applied in a very rigid and technical sense as they are used only to help secure, not override, substantial justice. Yet the holding is inapplicable to the present case as the trial court had a reasonable basis for denying petitioner's motion -

On February 6, 1990, Atty. Ponciano Mercado, defendant's counsel, manifested in Court that he has (sic) no more witness to present. He asked that he be given 15 days to make a formal offer of evidence and which the Court granted. At the scheduled hearing of April 03, 1990, Atty. Ponciano Mercado x x x x was not in Court. Atty. Veneracion, plaintiffs' counsel, called the attention of the Court that Atty. Mercado has (sic) not yet filed and/or complied with the Court Order dated February 06, 1990, which is to file his formal offer of evidence. On motion of Atty. Veneracion, defendant's right to file a formal offer of evidence was deemed waived. Atty. Veneracion waived the presentation of rebuttal evidence considering that the defendant can (sic) no longer make a formal offer of evidence.

On May 11, 1990, the Court was in receipt of a motion to admit formal offer of exhibits filed by the defendant thru counsel, Atty. Ponciano Mercado, on May 02, 1990. Considering that the same was filed out of time and the plaintiffs having filed their memorandum already, the motion to admit formal offer of exhibits was denied (underscoring supplied).

The trial court was correct in holding that petitioner waived the right to formally offer his evidence. A considerable lapse of time, about three (3) months, had already passed before petitioner's counsel made effort to formally offer his evidence. For the trial court to grant petitioner's motion to admit her exhibits would be to condone an inexcusable laxity if not non-compliance with a court order which, in effect, would encourage needless delays and derail the speedy administration of justice.

Petitioner also insists that the real intent of the parties was to make the entire Lot 4-B the subject matter of the sale. She claims that during cross-examination respondent Aurora S. Roque admitted that she signed in behalf of her co-heirs a receipt for P30,000.00 as partial payment for the lot occupied by Ka Baring and Lina (relatives of petitioner) and Iling (Consuelo Lim). Moreover, according to petitioner, the assertions of private respondents to petitioner contained in the demand letter should not necessarily be true and that the validity of the Deed of Extrajudicial Settlement of Estate with Sale was not affected by the fact that it was notarized in a place other than where the subject matter thereof was situated, citing *Sales v. Court of Appeals*.^[6]

These other arguments of petitioner are barren and futile. The admission of respondent Roque cannot prevail in the face of the clear evidence that there was as yet no meeting of the minds on the land area to be sold since private respondents were still awaiting the survey to be conducted on the premises. Obviously, the trial court only lent credence to the assertions in the demand letter after having weighed the respective evidence of the parties. But even without the letter, the evidence of respondents had already amply substantiated their claims.

We ruled in the *Sales* case that the extrinsic validity of a document was not affected by the fact that it was notarized in a place other than where the subject matter thereof was located. What is more important under the Notarial Law is that the notary public has authority to acknowledge the document executed within his territorial jurisdiction. The ruling in *Sales* is not applicable to the present case. Our concern here is not whether the notary public had the authority to acknowledge the document executed within his territorial jurisdiction but whether respondents indeed appeared before him and signed the deed. However, the quantum of evidence shows that they did not.

The trial court correctly appreciated the fact that the deed was notarized in Manila when it could have been notarized in Bulacan. This additional detail casts doubt on the procedural regularity in the preparation, execution and signing of the deed. It is not easy to believe that petitioner and the ten (10) Torres heirs traveled all the way to Manila to have their questioned document notarized considering that they, with the exception of respondent Roque, are residents of Balagtas, Bulacan, where notaries public are easy to find. Consequently, the claim of private respondents that they did not sign the document before a notary public is more plausible than petitioner's feeble claim to the contrary.

Likewise, we find the allegation of respondents that they signed the deed prior to the survey, or before determination of the area to be sold, worthy of credit as against the contention of petitioner that they signed after the survey or on 10 October 1984. As found by the trial court, such contention was contradicted by petitioner's own witness who positively asserted in court that the survey was conducted only on 16 October 1984 or six (6) days after the signing. Quite obviously, when respondents affixed their signatures on the deed, it was still incomplete since petitioner who caused it to be prepared left several spaces blank, more particularly as regards the dimensions of the property to be sold. The heirs were persuaded to sign the document only upon the assurance of petitioner that respondent Roque, pursuant to their understanding, would be present when the property would be surveyed after obtaining permission from the Bureau of Lands. As it surfaced, the supposed understanding was merely a ruse of petitioner to induce respondents to sign the deed without which the latter would not have given their conformity thereto.^[7] Apparently, petitioner deceived respondents by filling the blank spaces in the deed, having the lots surveyed and subdivided, and then causing the issuance of transfer certificates of title without their

knowledge, much less consent. Thus all the elements of fraud vitiating consent for purposes of annulling a contract concur: (a) It was employed by a contracting party upon the other; (b) It induced the other party to enter into the contract; (c) It was serious; and, (d) It resulted in damages and injury to the party seeking annulment.[8]

Perhaps, another compelling reason for the annulment of the document of settlement and conveyance is that the second page thereof clearly manifests that the number of the subdivision plan and the respective areas of Lots 4-A and 4-B were merely handwritten while all the rest of the statements therein were typewritten, which leads us to the conclusion that handwritten figures thereon were not available at the time the document was formalized.

WHEREFORE, there being no error to warrant a reversal of the decision and resolution in question of respondent Court of Appeals, which affirmed the decision of the Regional Trial Court of Malolos, Bulacan, Br. 22, the instant petition is DENIED.

SO ORDERED.

Padilla (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Assigned to Br. 22.

[2] Decision penned by Judge Candido R. Belmonte, RTC - Br. 22, Malolos, Bulacan; Rollo, pp. 29-38.

[3] Decision penned by Justice Emeterio C. Cui, concurred in by Justices Quirino Abad Santos, Jr., and Alfredo J. Lagamon, Rollo, pp. 26-28.

[4] *Id.*, p. 40.

[5] No. L-44050, 16 July 1985, 137 SCRA 570.

[6] No. L-40145, 29 July 1992, 211 SCRA 858.

[7] See *Periquet, Jr. v. Intermediate Appellate Court*, G.R. No. 69996, 5 December 1994, 238 SCRA 697.

[8] *Alcasid v. Court of Appeals*, G.R. No. 104751, 7 October 1994, 237 SCRA 419.

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