

**CARMELITA P. BASILIO, FRANCISCO P. BASILIO, EVELYN P. BASILIO,
AND THE MINOR GERALD P. BASILIO, REPRESENTED BY HIS
MOTHER, CARMELITA P. BASILIO, PETITIONERS, VS. COURT OF
APPEAL...**

G.R. No. 125935. November 29, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case under consideration is a petition for review on certiorari of the decision of the Court of Appeals,[1] which reversed that of the Regional Trial Court, Pampanga, Branch 55, Macabebe, involving the genuineness of two deeds of sale.

In his lifetime, Dionisio Z. Basilio owned Lot Nos. 240 and 214, located in Barrio dela Paz, San Simon, Pampanga, with an area of 14,903 square meters and 2,812 square meters, respectively, and covered by Transfer Certificate of Title Nos. 32699-R and 32698-R,[2] respectively.

On August 5, 1988, Dionisio Z. Basilio died.

On November 12, 1990, Carmelita P. Basilio, widow of Dionisio Z. Basilio, together with her children, Francisco P. Basilio, Evelyn P. Basilio, and Gerald P. Basilio filed with the Regional Trial Court, Pampanga, Macabebe an action for annulment of the deed of sale dated April 26, 1979, involving Lot No. 240, and for its reconveyance to the heirs of Dionisio Z. Basilio, with damages. Plaintiffs alleged that the deed of sale dated April 26, 1979, covering Lot No. 240 was spurious, on the basis of which the title in the name of Dionisio Z. Basilio was cancelled and a new title issued[3] in the name of the spouses Simon Zablan and Sonia Matias.[4]

On January 2, 1991, spouses Simon Zablan and Sonia Matias filed an answer to the complaint, denying any participation in or knowledge of the execution of the deed of absolute sale dated April 26, 1979. However, they averred that Dionisio Z. Basilio sold to them Lot Nos. 240 and 214, evidenced by a deed of sale dated March 19, 1987.[5]

On February 25, 1991, with leave of court, plaintiffs filed with the trial court an amended complaint[6] alleging that the deed of sale dated March 19, 1987, conveying Lot Nos. 214 and 240 to Simon Zablan and Sonia Matias was also spurious and null and void.

After due trial, on January 25, 1994, the trial court rendered a decision[7] declaring the signatures of Dionisio Z. Basilio as forged and annulled the two deeds of sale. The decretal portion of the decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, and hereby declares null and void and of no legal force and effect the two Deeds of Absolute Sale, respectively, dated April 26, 1979, and March 19, 1987, as well as TCT No. 07965-R covering Lot 240 of the cadastral survey of San Simon, and whatever certificate of title issued by the Register of Deeds of Pampanga covering Lot No. 214 on the basis of the document denominated as Deed of Absolute Sale dated March 19,

1987; hereby ordering the defendants jointly and severally to pay the plaintiffs by way of actual and compensatory damages the sum of P25,000.00, Philippine Currency; and, the further sum of P20,000.00 by way of exemplary damages, and to pay the costs of this proceeding.

"SO ORDERED."

In time, spouses Simon Zablan and Sonia Matias appealed to the Court of Appeals.[8]

After due proceedings, on August 7, 1996, the Court of Appeals promulgated its decision[9] reversing that of the trial court. The appellate court declared that the deed of sale dated March 19, 1987 was genuine, valid and binding but annulled the deed of sale dated April 26, 1979, after noting that defendants-appellants themselves denied the authenticity of that deed of sale.

Hence, this appeal.[10]

At issue is whether the deed of sale dated March 19, 1987, was genuine, which, however, was not the basis of the issuance of TCT No. 279651-R.

The trial court relied on the testimony of handwriting experts who concluded that the signatures on the questioned documents were forged. The Court of Appeals, however, placed greater weight on other evidence showing the genuineness of the document.

In light of the conflicting findings of the trial court and the Court of Appeals, we reviewed the factual findings of the appellate court.[11]

The deed of sale dated March 19, 1987, was executed by Dionisio Z. Basilio in favor of spouses Zablan, and notarized by Atty. Ruben Silvestre. Generally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity.[12] However, the presumption is not absolute and may be rebutted by clear and convincing evidence to the contrary.[13] Furthermore, an allegation of forgery must be proved by clear and convincing evidence, and whoever alleges it has the burden of proving the same.[14]

In this case, petitioners presented handwriting experts and other persons familiar with the handwriting of Dionisio Z. Basilio in order to show that the signature contained in the questioned deed of sale was forged.

According to the report of the handwriting experts of the National Bureau of Investigation, there were "fundamental, significant differences in writing characteristics between the questioned and the standard/sample specimen signatures," particularly, the "movement and manner of execution strokes," "structural pattern of letters/elements," and "minute/inconspicuous identifying details." [15]

Evelyn Basilio, daughter of Dionisio Z. Basilio, confirmed that the signature on the questioned deed of sale was forged, stating that she knew the authentic signature of her father because he used to sign her school report card periodically.[16]

Carmelita Basilio, wife of Dionisio Z. Basilio, stayed beside her husband from the time of his illness until his death. She was certain that from the time of his illness in 1987 until his death in 1988, Dionisio did not have the strength to sign a document much less personally appear before a notary public in the latter's office to acknowledge the execution of a deed of sale.

Moreover, our own analytical study of the questioned document showed that the signature of Dionisio Z. Basilio on the deed of sale dated March 19, 1987 was forged. We have examined the signature of Dionisio Z. Basilio on the deed of sale dated March 19, 1987, compared with other documents with his admittedly genuine signature. We

find the signatures to be patently dissimilar.

On the other hand, to bolster the authenticity and due execution of the questioned deed of sale, respondents presented as witness the notary public that notarized the document and the instrumental witnesses.

The notary public, Atty. Ruben Silvestre, testified that he was the one who notarized the document and that Dionisio Z. Basilio appeared personally before him and signed the instrument himself. However, he admitted that he did not know Dionisio Z. Basilio personally to ascertain if the person who signed the document was actually Dionisio Z. Basilio himself, or another person who stood in his place.[17] He could not even recall whether the document had been executed in his office or not.[18]

Thus, considering the testimonies of various witnesses and a comparison of the signature in question with admittedly genuine signatures, the Court is convinced that Dionisio Z. Basilio did not execute the questioned deed of sale. Although the questioned deed of sale was a public document having in its favor the presumption of regularity,[19] such presumption was adequately refuted by competent witnesses showing its forgery[20] and the Court's own visual analysis of the document.

WHEREFORE, the Court GRANTS the petition, and SETS ASIDE the decision of the Court of Appeals in CA-G. R. CV No. 45035. The Court revives and affirms the decision of the Regional Trial Court, Pampanga, Branch 55, Macabebe in Civil Case No. 90-0369 (M).

With costs against private respondents.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. No. CV No. 45035, promulgated on August 07, 1996, Labitoria, J., ponente, Garcia and Tuquero, JJ., concurring, Rollo pp. 28-41.

[2] Rollo, pp. 47-48; pp. 62-63.

[3] TCT No. 279651-R, Petition, Annex "C", Rollo, p. 49.

[4] Petition, Annex "B", Rollo, pp. 42-46.

[5] Petition, Annex "I", Rollo, p. 54.

[6] Petition, Annex "D", Rollo, pp. 55-60.

[7] Petition, Annex "E", Decision dated January 25, 1994, Judge Reynaldo V. Roura, presiding, Rollo, pp. 66-67, RTC Record, pp. 223-224.

[8] Docketed as CA-G. R. CV No. 45035.

[9] Supra, Note 1.

[10] Petition filed on August 29, 1996, Rollo, pp. 3-26.

[11] Siguan v. Lim, G. R. No. 134685, November 19, 1999.

[12] Loyola v. Court of Appeals, G. R. No. 115734, February 23, 2000.

[13] Lao v. Villones-Lao, 306 SCRA 387 (1999); Embrado v. Court of Appeals, 233 SCRA 335 (1994);

Salame v. Court of Appeals, 239 SCRA 356 (1994).

[14] Sumbad v. Court of Appeals, 308 SCRA 575 (1999), citing Veloso v. Court of Appeals, 329 Phil. 398 (1996).

[15] Questioned Documents Report No. 865-1291, RTC Record, pp. 121-122.

[16] TSN, September 25, 1991, pp. 17-19.

[17] Testimony of Atty. Ruben Silvestre, TSN, July 19, 1993, pp. 10-12.

[18] Ibid., p. 10.

[19] Garrido v. Court of Appeals, 236 SCRA 450, 457 (1994); Azner Brothers v. Court of Appeals, G. R. No. 128102, March 7, 2000.

[20] 20 TSN, June 17, 1992, p. 21, witness Rogelio Azures, Asst. Chief, Questioned Document Division, NBI; TSN, July 17, 1992, pp. 16-17, witness Eliodoro M. Constantino, NBI Document Examiner.

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