EUGENIO DOMINGO, CRISPIN MANGABAT AND SAMUEL CAPALUNGAN, PETITIONERS, VS. HON. COURT OF APPEALS, FELIPE C. RIGONAN AND CONCEPCION R. RIGONAN, RESPONDENTS. EUGENIO DOMINGO, CRISP...

G.R. No. 127540. October 17, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition[1] seeks to annul the decision of the Court of Appeals dated August 29, 1996, which set aside the decision of the Regional Trial Court of Batac, Ilocos Norte, Branch 17, in Civil Case No. 582-17 for reinvindicacion consolidated with Cadastral Case No. 1.[2] The petition likewise seeks to annul the resolution dated December 11, 1996, denying petitioners' motion for reconsideration.

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

Paulina Rigonan owned three (3) parcels of land, located at Batac and Espiritu, Ilocos Norte, including the house and warehouse on one parcel. She allegedly sold them to private respondents, the spouses Felipe and Concepcion Rigonan, who claim to be her relatives. In 1966, herein petitioners Eugenio Domingo, Crispin Mangabat and Samuel Capalungan, who claim to be her closest surviving relatives, allegedly took possession of the properties by means of stealth, force and intimidation, and refused to vacate the same. Consequently, on February 2, 1976, herein respondent Felipe Rigonan filed a complaint for reinvindicacion against petitioners in the Regional Trial Court of Batac, Ilocos Norte. On July 3, 1977, he amended the complaint and included his wife as co-plaintiff. They alleged that they were the owners of the three parcels of land through the deed of sale executed by Paulina Rigonan on January 28, 1965; that since then, they had been in continuous possession of the subject properties and had introduced permanent improvements thereon; and that defendants (now petitioners) entered the properties illegally, and they refused to leave them when asked to do so.

Herein petitioners, as defendants below, contested plaintiffs' claims. According to defendants, the alleged deed of absolute sale was void for being spurious as well as lacking consideration. They said that Paulina Rigonan did not sell her properties to anyone. As her nearest surviving kin within the fifth degree of consanguinity, they inherited the three lots and the permanent improvements thereon when Paulina died in 1966. They said they had been in possession of the contested properties for more than 10 years. Defendants asked for damages against plaintiffs.

During trial, Juan Franco, Notary Public Evaristo P. Tagatag[3] and plaintiff Felipe Rigonan testified for plaintiffs (private respondents now).

Franco testified that he was a witness to the execution of the questioned deed of absolute sale. However, when cross-examined and shown the deed he stated that the deed was not the document he signed as a witness, but rather it was the will and testament made by Paulina Rigonan.

Atty. Tagatag testified that he personally prepared the deed, he saw Paulina Rigonan affix her thumbprint on it

and he signed it both as witness and notary public. He further testified that he also notarized Paulina's last will and testament dated February 19, 1965. The will mentioned the same lots sold to private respondents. When asked why the subject lots were still included in the last will and testament, he could not explain. Atty. Tagatag also mentioned that he registered the original deed of absolute sale with the Register of Deeds.

Plaintiff Felipe Rigonan claimed that he was Paulina's close relative. Their fathers were first cousins. However, he could not recall the name of Paulina's grandfather. His claim was disputed by defendants, who lived with Paulina as their close kin. He admitted the discrepancies between the Register of Deeds' copy of the deed and the copy in his possession. But he attributed them to the representative from the Office of the Register of Deeds who went to plaintiffs' house after that Office received a subpoena duces tecum. According to him, the representative showed him blanks in the deed and then the representative filled in the blanks by copying from his (plaintiff's) copy.

Counsel for defendants (petitioners herein) presented as witnesses Jose Flores, the owner of the adjacent lot; Ruben Blanco, then acting Registrar of Deeds in Ilocos Norte; and Zosima Domingo, wife of defendant Eugenio Domingo.

Jose Flores testified that he knew defendants, herein petitioners, who had lived on the land with Paulina Rigonan since he could remember and continued to live there even after Paulina's death. He said he did not receive any notice nor any offer to sell the lots from Paulina, contrary to what was indicated in the deed of sale that the vendor had notified all the adjacent owners of the sale. He averred he had no knowledge of any sale between Paulina and private respondents.

Ruben Blanco, the acting Registrar of Deeds, testified that only the carbon copy, also called a duplicate original, of the deed of sale was filed in his office, but he could not explain why this was so.

Zosima Domingo testified that her husband, Eugenio Domingo, was Paulina's nephew. Paulina was a first cousin of Eugenio's father. She also said that they lived with Paulina and her husband, Jose Guerson, since 1956. They took care of her, spent for her daily needs and medical expenses, especially when she was hospitalized prior to her death. She stated that Paulina was never badly in need of money during her lifetime.

On March 23, 1994, the trial court rendered judgment in favor of defendants (now the petitioners). It disposed:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of defendants and against the plaintiffs, and as prayed for, the Amended Complaint is hereby DISMISSED.
>
> Defendants are hereby declared, by virtue of intestate succession, the lawful owners and possessors of the house including the bodega and the three (3) parcels of land in suit and a Decree of Registration adjudicating the ownership of the said properties to defendants is hereby issued.
>
> The alleged deed of sale (Exhs. "A", "A-1", "1" and "1-a") is hereby declared null and void and fake and the prayer for the issuance of a writ of preliminary injunction is hereby denied.
>
> Plaintiffs are hereby ordered to pay defendants:
>
> a) P20,000.00 as moral damages;
>
> b) P10,000.00 as exemplary damages;
>
> c) P10,000.00 attorney's fees and other litigation expenses.
>
> No pronouncement as to costs.[4]

Private respondents herein appealed to the Court of Appeals.

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On August 29, 1996, the CA reversed the trial court's decision, thus:

> WHEREFORE, the decision dated March 23, 1994 is hereby SET ASIDE. The plaintiffs-appellants Felipe Rigonan and Concepcion Rigonan are declared the owners of the properties under litigation and the defendants-appellees are hereby ordered to VACATE the subject properties and SURRENDER the possession thereof to the heirs of the plaintiffs-appellants.
>
> Costs against the defendants-appellees.[5]

Hence, this petition assigning the following as errors:

> I
>
> THE RESPONDENT COURT OF APPEALS HAS DECIDED QUESTIONS OF LEGAL SUBSTANCE AND SIGNIFICANCE NOT IN ACCORDANCE WITH THE EVIDENCE, LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT.
>
> II
>
> THAT THE FINDINGS OF RESPONDENT COURT OF APPEALS ARE CONTRARY TO THOSE OF THE TRIAL COURT AND CLEARLY VIOLATES THE RULE THAT THE FACTUAL FINDINGS OF TRIAL COURTS ARE ENTITLED TO GREAT WEIGHT AND RESPECT ON APPEAL, ESPECIALLY WHEN SAID FINDINGS ARE ESTABLISHED BY UNREBUTTED TESTIMONIAL AND DOCUMENTARY EVIDENCE.
>
> III
>
> THAT THE FINDINGS AND CONCLUSIONS OF RESPONDENT COURT OF APPEALS ARE GROUNDED ENTIRELY ON SPECULATIONS, SURMISES, CONJECTURES, OR ON INFERENCES MANIFESTLY MISTAKEN.
>
> IV
>
> THAT THE RESPONDENT COURT OF APPEALS MANIFESTLY OVERLOOKED CERTAIN RELEVANT FACTS NOT DISPUTED BY THE PARTIES AND WHICH, IF PROPERLY CONSIDERED, WOULD JUSTIFY A DIFFERENT CONCLUSION.
>
> V
>
> THAT THE FINDINGS OF FACT OF RESPONDENT COURT OF APPEALS ARE PREMISED ON SUPPOSED ABSENCE OF EVIDENCE BUT IS CONTRADICTED BY THE EVIDENCE ON RECORD THUS CONSTITUTES GRAVE ABUSE OF DISCRETION.[6]

The basic issue for our consideration is, did private respondents sufficiently establish the existence and due execution of the Deed of Absolute and Irrevocable Sale of Real Property? Marked as Exhibits "A," "A-1," "1" and "1-a," this deed purportedly involved nine (9) parcels of land, inclusive of the three (3) parcels in dispute, sold at the price of P850 by Paulina Rigonan to private respondents on January 28, 1965, at Batac, Ilocos Norte.[7] The trial court found the deed "fake," being a carbon copy with no typewritten original presented; and the court concluded that the document's execution "was tainted with alterations, defects, tamperings, and irregularities which render it null and void ab initio".[8]

Petitioners argue that the Court of Appeals erred in not applying the doctrine that factual findings of trial courts are entitled to great weight and respect on appeal, especially when said findings are established by unrebutted testimonial and documentary evidence. They add that the Court of Appeals, in reaching a different conclusion, had decided the case contrary to the evidence presented and the law applicable to the case. Petitioners maintain

that the due execution of the deed of sale was not sufficiently established by private respondents, who as plaintiffs had the burden of proving it. First, the testimonies of the two alleged instrumental witnesses of the sale, namely, Juan Franco and Efren Sibucao, were dispensed with and discarded when Franco retracted his oral and written testimony that he was a witness to the execution of the subject deed. As a consequence, the appellate court merely relied on Atty. Tagatag's (the notary public) testimony, which was incredible because aside from taking the double role of a witness and notary public, he was a paid witness. Further his testimony, that the subject deed was executed in the house of Paulina Rigonan, was rebutted by Zosima Domingo, Paulina's housekeeper, who said that she did not see Atty. Tagatag, Juan Franco and Efren Sibucao in Paulina's house on the alleged date of the deed's execution.

Secondly, petitioners said that private respondents failed to account for the typewritten original of the deed of sale and that the carbon copy filed with the Register of Deeds was only a duplicate which contained insertions and erasures. Further, the carbon copy was without an affidavit of explanation, in violation of the Administrative Code as amended, which requires that if the original deed of sale is not presented or available upon registration of the deed, the carbon copy or so-called "duplicate original" must be accompanied by an affidavit of explanation, otherwise, registration must be denied.[9]

Thirdly, petitioners aver that the consideration of only P850 for the parcels of land sold, together with a house and a warehouse, was another indication that the sale was fictitious because no person who was financially stable would sell said property at such a grossly inadequate consideration.

Lastly, petitioners assert that there was abundant evidence that at the time of the execution of the deed of sale, Paulina Rigonan was already senile. She could not have consented to the sale by merely imprinting her thumbmark on the deed.

In their comment, private respondents counter that at the outset the petition must be dismissed for it lacks a certification against forum-shopping. Nonetheless, even disregarding this requirement, the petition must still be denied in due course for it does not present any substantial legal issue, but factual or evidentiary ones which were already firmly resolved by the Court of Appeals based on records and the evidence presented by the parties. Private respondents' claim that the factual determination by the trial court lacks credibility for it was made by the trial judge who presided only in one hearing of the case. The trial judge could not validly say that the deed of absolute sale was "fake" because no signature was forged, according to private respondents; and indeed a thumbmark, said to be the seller's own, appears thereon.

In their reply, petitioners said that the copy of the petition filed with this Court was accompanied with a certification against forum shopping. If private respondents' copy did not contain same certification, this was only due to inadvertence. Petitioners ask for the Court's indulgence for anyway there was substantial compliance with Revised Circular No. 28-91.

On the contention that here only factual issues had been raised, hence not the proper subject for review by this Court, petitioners reply that this general rule admits of exceptions, as when the factual findings of the Court of Appeals and the trial court are contradictory; when the findings are grounded entirely on speculations, surmises or conjectures; and when the Court of Appeals overlooked certain relevant facts not disputed by the parties which if properly considered would justify a different conclusion. All these, according to petitioners, are present in this case.

Before proceeding to the main issue, we shall first settle procedural issues raised by private respondents.

While the trial judge deciding the case presided over the hearings of the case only once, this circumstance could

not have an adverse effect on his decision. The continuity of a court and the efficacy of its proceedings are not affected by the death, resignation or cessation from the service of the presiding judge. A judge may validly render a decision although he has only partly heard the testimony of the witnesses.[10] After all, he could utilize and rely on the records of the case, including the transcripts of testimonies heard by the former presiding judge.

On the matter of the certification against forum-shopping, petitioners aver that they attached one in the copy intended for this Court. This is substantial compliance. A deviation from a rigid enforcement of the rules may be allowed to attain their prime objective for, after all, the dispensation of justice is the core reason for the court's existence.[11]

While the issues raised in this petition might appear to be mainly factual, this petition is properly given due course because of the contradictory findings of the trial court and the Court of Appeals. Further, the latter court apparently overlooked certain relevant facts which justify a different conclusion.[12] Moreover, a compelling sense to make sure that justice is done, and done rightly in the light of the issues raised herein, constrains us from relying on technicalities alone to resolve this petition.

Now, on the main issue. Did private respondents establish the existence and due execution of the deed of sale? Our finding is in the negative. First, note that private respondents as plaintiffs below presented only a carbon copy of this deed. When the Register of Deeds was subpoenaed to produce the deed, no original typewritten deed but only a carbon copy was presented to the trial court. Although the Court of Appeals calls it a "duplicate original," the deed contained filled in blanks and alterations. None of the witnesses directly testified to prove positively and convincingly Paulina's execution of the original deed of sale. The carbon copy did not bear her signature, but only her alleged thumbprint. Juan Franco testified during the direct examination that he was an instrumental witness to the deed. However, when cross-examined and shown a copy of the subject deed, he retracted and said that said deed of sale was not the document he signed as witness.[13] He declared categorically he knew nothing about it.[14]

We note that another witness, Efren Sibucao, whose testimony should have corroborated Atty. Tagatag's, was not presented and his affidavit was withdrawn from the court,[15] leaving only Atty. Tagatag's testimony, which aside from being uncorroborated, was self-serving.

Secondly, we agree with the trial court that irregularities abound regarding the execution and registration of the alleged deed of sale. On record, Atty. Tagatag testified that he himself registered the original deed with the Register of Deeds.[16] Yet, the original was nowhere to be found and none could be presented at the trial. Also, the carbon copy on file, which is allegedly a duplicate original, shows intercalations and discrepancies when compared to purported copies in existence. The intercalations were allegedly due to blanks left unfilled by Atty. Tagatag at the time of the deed's registration. The blanks were allegedly filled in much later by a representative of the Register of Deeds. In addition, the alleged other copies of the document bore different dates of entry: May 16, 1966, 10:20 A.M.[17] and June 10, 1966, 3:16 P.M.,[18] and different entry numbers: 66246, 74389[19] and 64369.[20] The deed was apparently registered long after its alleged date of execution and after Paulina's death on March 20, 1966.[21] Admittedly, the alleged vendor Paulina Rigonan was not given a copy.[22]

Furthermore, it appears that the alleged vendor was never asked to vacate the premises she had purportedly sold. Felipe testified that he had agreed to let Paulina stay in the house until her death.[23] In Alcos v. IAC, 162 SCRA 823 (1988), the buyer's immediate possession and occupation of the property was deemed corroborative of the truthfulness and authenticity of the deed of sale. The alleged vendor's continued possession of the property in this case throws an inverse implication, a serious doubt on the due execution of the deed of sale. Noteworthy, the same parcels of land involved in the alleged sale were still included in the will subsequently executed by Paulina and

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notarized by the same notary public, Atty. Tagatag.[24] These circumstances, taken together, militate against unguarded acceptance of the due execution and genuineness of the alleged deed of sale.

Thirdly, we have to take into account the element of consideration for the sale. The price allegedly paid by private respondents for nine (9) parcels, including the three parcels in dispute, a house and a warehouse, raises further questions. Consideration is the why of a contract, the essential reason which moves the contracting parties to enter into the contract.[25] On record, there is unrebutted testimony that Paulina as landowner was financially well off. She loaned money to several people.[26] We see no apparent and compelling reason for her to sell the subject parcels of land with a house and warehouse at a meager price of P850 only.

In Rongavilla vs. CA, 294 SCRA 289 (1998), private respondents were in their advanced years, and were not in dire need of money, except for a small amount of P2,000 which they said were loaned by petitioners for the repair of their house's roof. We ruled against petitioners, and declared that there was no valid sale because of lack of consideration.

In the present case, at the time of the execution of the alleged contract, Paulina Rigonan was already of advanced age and senile. She died an octogenarian on March 20, 1966, barely over a year when the deed was allegedly executed on January 28, 1965, but before copies of the deed were entered in the registry allegedly on May 16 and June 10, 1966. The general rule is that a person is not incompetent to contract merely because of advanced years or by reason of physical infirmities.[27] However, when such age or infirmities have impaired the mental faculties so as to prevent the person from properly, intelligently, and firmly protecting her property rights then she is undeniably incapacitated. The unrebutted testimony of Zosima Domingo shows that at the time of the alleged execution of the deed, Paulina was already incapacitated physically and mentally. She narrated that Paulina played with her waste and urinated in bed. Given these circumstances, there is in our view sufficient reason to seriously doubt that she consented to the sale of and the price for her parcels of land. Moreover, there is no receipt to show that said price was paid to and received by her. Thus, we are in agreement with the trial court's finding and conclusion on the matter:

> The whole evidence on record does not show clearly that the fictitious P850.00 consideration was ever delivered to the vendor. Undisputably, the P850.00 consideration for the nine (9) parcels of land including the house and bodega is grossly and shockingly inadequate, and the sale is null and void ab initio.[28]

WHEREFORE, the petition is GRANTED. The decision and resolution of the Court of Appeals dated August 29, 1996 and December 11, 1996, respectively, are REVERSED and SET ASIDE. The decision of the Regional Trial Court of Batac, Ilocos Norte, Branch 17, dated March 23, 1994, is REINSTATED.

Costs against private respondents.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 4-30.

[2] Id. at 34-44.

[3] Also spelled as "Tagatac".

[4] Rollo, p. 72.

[5] Id. at 43-44.

[6] Id. at 6-7.

[7] Records, Civil Case No. 582-17, pp. 108-109.

[8] Decision penned by Judge Ariston Rubio, Rollo, p. 67.

[9] Rollo, p. 22.

[10] Ayco vs. Fernandez, 195 SCRA 328, 333 (1991).

[11] Philippine Coconut Authority vs. Corona International, Inc., G.R. No. 139910, September 29, 2000, p. 8.

[12] Medel vs. People, G.R. No. 137143, December 8, 2000, p. 7.

[13] Records, p. 101.

[14] TSN, July 6, 1978, pp. 5-26.

[15] TSN, January 15, 1981, p. 26.

[16] TSN, August 22, 1979, p. 19.

[17] Records, pp. 19 and 112.

[18] Id. at 19.

[19] Id. at 108, 109 and 112.

[20] Id. at 112.

[21] Records for Cadastral Case for lot no. 949, p. 138.

[22] TSN, August 22, 1979, p. 23.

[23] Records, pp. 94 and 100.

[24] TSN, August 22, 1979, p.14.

[25] Villamor vs. Court of Appeals, 202 SCRA 607, 615 (1991).

[26] Records, p. 139.

[27] Loyola, et al. vs. Court of Appeals, G.R. No. 115734, February 23, 2000, p. 8.

[28] Decision, p. 11; CA Rollo, p. 89; Rollo, p. 71.

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