

ROMEO PALOMA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, EDUARDO POBLACION, APOLINARIA PALOMA VDA. DE VILLANUEVA, RENATO PANIZALES, JONATHAN TICAR, VICENTE PALOMA AND THE N...

G.R. No. 145431. November 11, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In this petition for review, petitioner seeks to reverse and set aside the decision[1] dated June 16, 1994, of the Court of Appeals in CA-G.R. SP No. 30672 dismissing his special civil action for certiorari, and also its resolution dated September 20, 2000, denying his motion for reconsideration.

The factual antecedents of this petition are as follows:

On December 27, 1991, herein petitioner Romeo Paloma filed before the Regional Trial Court of Iloilo City, Branch 27, several complaints for accion publiciana against (1) Eduardo Poblacion, Civil Case No. 20168; (2) Narina Paloma Vda. de Villanueva, Civil Case No. 20169; (3) Renato Panizales, Civil Case No. 20170; and (4) Jonathan Ticar, Civil Case No. 20171.[2] These cases were consolidated and jointly heard.

Private respondents Apolinaria[3] Paloma Vda. de Villanueva together with Vicente Paloma were intervenors in Civil Cases Nos. 20168, 20170 and 20171. Vicente Paloma intervened in Civil Case No. 20169 as well.

In his complaint, petitioner averred that he is the absolute and registered owner of a parcel of land covered by TCT No. 61166 of the Registry of Deeds of Iloilo. He alleged that the subject property had been occupied by private respondents on his mere tolerance. According to petitioner, he had been repeatedly demanding from private respondents to vacate his property because he intends to develop and subdivide the property into residential lots which he eventually intends to sell. However, he said, his demands fell on deaf ears.

In their respective answers, private respondents alleged, among others, that the Transfer Certificate of Title covering the subject property was obtained by petitioner through a falsified or forged deed of sale. They alleged that the signatures of the seller, Mercedes Padernilla, the late mother of petitioner and private respondents Villanueva and Paloma, on said document were forgeries.

On September 25, 1992, private respondents filed a motion to refer to the National Bureau of Investigation (NBI) the questioned document, a deed of sale dated September 15, 1965, allegedly executed by Mercedes Padernilla in favor of the petitioner over the disputed property, for expert handwriting examination using as basis or specimen the signatures of Mercedes appearing in the pleadings of Civil Case No. 6618 entitled "Mercedes Padernilla v. Romeo Paloma". The motion was granted by the trial court in an order dated November 4, 1992.[4] Petitioner moved for a reconsideration but said motion was denied on February 8, 1993.[5]

With the denial of his motion for reconsideration, petitioner filed a petition for certiorari with a prayer for

preliminary injunction with the Court of Appeals, docketed as CA-G.R. SP No. 30672 mainly on the ground that the trial court gravely abused its discretion when it issued the order to the NBI to use as basis or standard specimen the signature of Mercedes Padernilla in Civil Case No. 6618 for handwriting examination, without first establishing the genuineness and due execution of said signature.

On June 16, 1994, the appellate court affirmed the order of the trial court, thus:

x x x

At any rate, when the law makes use of the phrase "genuineness and due execution of the instrument", it means nothing more than that the instrument is not spurious, counterfeit or of different import on its case from the one executed (*Bough vs. Canterverios*, 40 Phil. 213). The phrase "genuineness and due execution of the instrument" is conspicuous in its absence in the questioned deed of sale. Hence, in the case at bar, said deed or instrument may be considered spurious, if not falsified.

Moreover, it is now universally established that genuine writings or signatures which are "part of the records" may be compared by the Court with the disputed signature or writing (20 Am. Jur. 705). Consequently, the respondent Judge in this case correctly ruled that the signature of Mercedes Padernilla found in Civil Case No. 6618 should be treated as her standard specimen that will serve as the basis of comparison with the signature found in the questioned deed of sale by the National Bureau of Investigation (NBI).

ACCORDINGLY, in the light of the foregoing disquisitions, the petition for certiorari cannot be given due course, as it is hereby DISMISSED for lack of merit. We make no pronouncement as to costs.

SO ORDERED.[6]

Petitioner duly filed a motion for reconsideration, which the Court of Appeals denied on September 20, 2000.[7]

Hence, this petition where petitioner assigns the following errors:

(1)

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT CERTIORARI WAS NOT THE PROPER REMEDY OF PETITIONER DESPITE THE FACT THAT THE HONORABLE QUIRICO G. DEFENSOR, AS PRESIDING JUDGE OF THE TRIAL COURT, CLEARLY ACTED WITH GRAVE ABUSE OF DISCRETION EQUIVALENT TO LACK AND/OR EXCESS OF JURISDICTION WHEN HE GRANTED THE MOTION TO REFER TO NBI FOR EXPERT EXAMINATION THE DEED OF SALE BETWEEN PETITIONER AND HIS DECEASED MOTHER, MERCEDES PADERNILLA, WITHOUT FIRST ESTABLISHING THE GENUINENESS AND DUE EXECUTION OF THE SIGNATURES OFFERED BY PRIVATE RESPONDENTS AS STANDARD OR SPECIMEN SIGNATURES OF MERCEDES PADERNILLA.

(2)

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT THE QUESTIONED DEED OF SALE MAY BE CONSIDERED SPURIOUS, IF NOT FALSIFIED, BECAUSE "THE PHRASE 'GENUINENESS AND DUE EXECUTION OF THE INSTRUMENT' IS CONSPICUOUS IN ITS ABSENCE IN THE QUESTIONED DEED OF SALE".

(3)

THE HONORABLE COURT OF APEALS SERIOUSLY ERRED IN HOLDING THAT THE ALLEGED SIGNATURES OF MERCEDES PADERNILLA FOUND IN CIVIL CASE NO. 6618 SHOULD BE TREATED AS THE STANDARD OR

SPECIMEN SIGNATURES IN THE EXAMINATION OF THE SIGNATURE OF MERCEDES PADERNILLA APPEARING ON THE QUESTIONED DEED OF SALE BY THE NATIONAL BUREAU OF INVESTIGATION BECAUSE THEY ARE SUPPOSEDLY "PART OF THE RECORDS".

(4)

THE ASSAILED DECISION AND RESOLUTION OF THE HONORABLE COURT OF APPEALS HAVE BEEN MOOTED BY THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT OF ILOILO CITY, BRANCH 36, IN CIVIL CASE NOS. 20168 TO 20171, INCLUSIVE, DECLARING THE QUESTIONED DEED OF SALE TO BE VALID, EFFECTIVE, AND AUTHENTIC.[8]

At issue is whether the Court of Appeals erred in affirming the trial court's order granting private respondents' motion to refer the disputed signature of Mercedes Padernilla in the deed of sale to the NBI for handwriting examination, without first establishing the due execution and genuineness of the documents as well as the signatures offered by private respondents as standard or specimen signatures of Padernilla. Further, also at issue is whether the controversy raised before the appellate court has become moot.

Petitioner contends that while he is not averse to referring the deed of sale for handwriting examination by the NBI to resolve the issue of forgery of Mercedes Padernilla's signature in the deed of sale, it is only proper that the due execution and authenticity of the documents offered by private respondents and the genuineness of the alleged signatures of Padernilla appearing in the deed of quitclaim, must first be established. He claims that the genuineness of a signature, pursuant to Section 22,[9] Rule 132 of the Revised Rules of Court, is established either: (a) when the signature is admitted or treated as genuine by the party against whom the evidence respecting the handwriting is offered (petitioner in this case); or (b) when the signature is proved to be genuine to the satisfaction of the judge. He maintains that private respondents failed to show, through any of these modes, that the purported specimen signatures they offered were genuine. Petitioner further argues that the assailed decision and resolution of the appellate court may have been mooted by the decision of the trial court on March 29, 1999 in Civil Cases Nos. 20168 to 20171, upholding the validity and authenticity of the questioned deed of sale.

Private respondents, for their part, argue that it is now universally established that genuine writings or signatures which are part of the records, may be compared by the court with a disputed writing or signature. They also claim that signatures of Padernilla appearing in the deed of quitclaim were attached to the motion for handwriting examination. These signatures are in notarial documents and are found in the records of Civil Case No. 6618. According to private respondents, these facts proved to the satisfaction of the trial court that said signatures are genuine and should thus be treated as standard specimen signatures of Mercedes Padernilla. Private respondents further contend that the order requiring handwriting examination was not mooted by the trial court's subsequent decision upholding the validity and authenticity of the questioned deed of sale. Said decision is not yet final, they said, as it was elevated by way of appeal to the Court of Appeals on May 24, 2000.[10]

At the outset, we note that the appellate court affirmed the trial court's order and dismissed petitioner's special civil action in its decision dated June 16, 1994. We also note that on March 29, 1999, the trial court rendered a decision in Civil Cases Nos. 20168 to 20171 declaring, inter alia, that the deed of sale between petitioner and Mercedes Padernilla, as valid and effective. It further held that the purported signatures of Padernilla in the deed of quitclaim was of doubtful authenticity.[11]

In our view, the issue of whether the trial court acted with grave abuse of discretion when it granted the motion for handwriting examination, using as basis the purported signatures of Padernilla which have not been previously established to be genuine, has become moot and academic. Where the issue has become moot and academic, there is no justiciable controversy, thereby rendering the resolution of the same of no practical use or value.[12]

Moreover, the appellate court was asked merely to determine whether the trial court committed grave abuse of discretion when it granted petitioner's motion. The genuineness and due execution of the questioned deed of sale is a distinct matter. The issue of genuineness of the signature appearing in the deed of sale is properly the subject of private respondents' appeal of the trial court's decision before the Court of Appeals.

WHEREFORE, the instant petition is DENIED for being moot.

SO ORDERED.

Bellosillo, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Rollo, pp. 44-47.

[2] Id. at 49-66.

[3] Also known as "Narina."

[4] Rollo, pp. 84-86.

[5] Id. at 95-97.

[6] Id. at 46-47.

[7] Id. at 48.

[8] Id. at 22.

[9] SEC. 22. How genuineness of handwriting proved.--The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he has seen the person write, or has seen writing purporting to be his upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person. Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.

[10] Pending appeal docketed as CA-G.R. CV No. 69360.

[11] Rollo, pp. 153-155.

[12] Garcia v. Commission on Elections, G.R. No. 121139, 12 July 1996, 258 SCRA 754, 757.

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