

**MAURA PASCUAL, PETITIONER, VS. CONRADO FAJARDO,
SUBSTITUTED BY ANTONIO, CONRADO, JR., ALICIA, CORAZON, AND
LEONIDA, ALL SURNAMED FAJARDO AND DANIEL T. GREGORIO,
RESPONDENTS.**

G.R. NO. 146721. September 15, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is the Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated September 14, 2000 of the Court of Appeals in CA-G.R. CV No. 50921.

The facts as found by the Court of Appeals are:

From 1971 to 1991, Conrado Fajardo, herein respondent, and Maura Pascual, petitioner, lived together as husband and wife without the benefit of marriage. On October 15, 1982, respondent purchased from Josefina Jacinto a parcel of land[2] located in Sta. Barbara, Baliuag, Bulacan, with an area of 13,929 square meters, covered by Transfer Certificate of Title (TCT) No. T-41670. The parties executed the corresponding Deed of Sale witnessed, among others, by Daniel T. Gregorio, also a respondent. It was executed in Malolos, Bulacan and notarized by Atty. Elenita A. Corpus.

Sometime in 1991, respondent Fajardo found several falsified documents perpetrated by petitioner transferring the ownership of his property. These are:

- a) Deed of Absolute Sale dated August 2, 1978 executed by and between Josefina Jacinto, as vendee, and respondent Conrado Fajardo, as vendor, involving the subject property;
- b) Deed of Absolute Sale dated August 3, 1978 of a 1,000-square meter portion of the subject property conveyed by respondent to petitioner;
- c) Deed of Absolute Sale dated August 6, 1978 of another 1,000-square meter portion of the same property transferred by respondent to petitioner; and
- d) Deed of Absolute Sale dated August 8, 1978 involving a house and lot located on a 1,000-square meter portion of the same property transferred by respondent to petitioner.

All these documents were executed in Cabanatuan City and notarized by Atty. Primitivo B. Punzalan.

Upon investigation, respondent also found that petitioner caused the registration in her name of TCT No. 288789 issued by the Register of Deeds of Bulacan on October 11, 1984 covering another 3,000-square meter portion of the property.

Enraged by such findings, respondent, in January 1991, decided to separate from petitioner. Thereafter, he filed

with the Office of the Provincial Prosecutor of Bulacan a complaint against her. In turn, the Provincial Prosecutor, finding probable cause, charged her with falsification of private documents before the Regional Trial Court (RTC), same Province.

Subsequently, respondents Conrado Fajardo and Daniel Gregorio filed with the RTC, Branch 11, Malolos, Bulacan, a complaint for nullification of the questioned Deeds of Sale, cancellation of TCT No. 288789, and damages against petitioner, docketed as Civil Case No. 276-M-91.

On July 10, 1991, respondent Conrado Fajardo died. He was substituted by his legitimate children, namely: Antonio, Conrado, Jr., Alicia, Corazon, and Leonida, all surnamed Fajardo.

On January 18, 1996, after hearing, the trial court rendered a Decision[3] in favor of respondents and against petitioner. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant:

- 1) Declaring the Deed of Absolute Sale executed by Josefina Jacinto and Conrado Fajardo on August 2, 1978 at Cabanatuan City null and void;
- 2) Declaring the three (3) Deeds of Absolute Sale executed between Conrado Fajardo and defendant on August 3, 1978 and August 6, 1978, respectively, null and void;
- 3) Ordering the cancellation of Transfer Certificate of Title No. T-288789 in the Register of Deeds of Bulacan and reconveyance to herein plaintiffs the property consisting of 3,000 square meters including the residential house and seven (7) door apartment;
- 4) Directing defendant to account for and return all the proceeds of the monthly rentals she has collected from the tenants to herein plaintiffs, substituted heirs of Fajardo;
- 5) Directing defendant to pay the plaintiffs, substituted heirs of Conrado Fajardo, namely: Antonio, Conrado, Jr., Alicia, Corazon and Leonida, all surnamed Fajardo:
 - a) the amount of P200,000.00 as actual damages;
 - b) the amount of P200,000.00 as moral damages;
 - c) the amount of P100,000.00 as exemplary damages;
 - d) the amount of P50,000.00 as attorney's fees; and
 - e) the costs of suit.

SO ORDERED.

The trial court held that the questioned documents are void, thus:

First, with respect to the alleged deed of absolute sale dated August 3, 1978, entered into between Josefina Jacinto and Conrado Fajardo, no less than the listed witness therein, Daniel Gregorio, has denounced his signature appearing in the document as a forgery to the extent that, aside from this case, he even joined the late Conrado Fajardo in charging defendant with falsification of public document before the Fiscal's Office. Defendant practically put up nothing to refute the witness' claim. Atty. Punzalan himself did not meet the issue head on at the witness stand, choosing instead to take the general position that the document is authentic and that the signatories all affixed their signatures in his presence. This Court finds no reason, however, to doubt the veracity of the witness. His association and relationship with the late Fajardo and Josefina Jacinto as well have been clearly established. It is plain that he came to court not take a partisan posturing but to straighten out the record, testifying in the process that the sale transaction between Fajardo and Jacinto over the same

property in which he stood as witness took place in 1982.

Second, Atty. Punzalan's notarial authority is dubious. Admittedly, at the time he allegedly notarized subject documents, he was employed with the government, specifically with the PNB (TSN, July 14, 1974, p. 23). As such, it is hardly believable that he was in a position to act upon the documents as a notary public. Lawyers in the government service, as a rule, are prohibited in engaging in the practice of notary public unless a specific written authority from the department head mandates otherwise, which appears not to be so in the instant case (TSN, *ibid.*). Atty. Punzalan himself cannot even account for copies of the questioned deeds of sale which is rather unusual of a notary public he claims to be. Worse, as testified to by Alicia Fajardo, upon verification from the Bureau of Archives, it was found that Atty. Punzalan has no notarial record on file with said office, with particular reference to the deeds of sale in question (TSN, A. Fajardo, December 9, 1993, p. 5). Further, the appearance in court of rebuttal witnesses (for the plaintiff), Fortunato Fajardo and Teofilo Manalaysay, denying any transaction with Atty. Punzalan in the year 1978 concerning the parcels of land they purchased from Conrado Fajardo clashes with the lawyer's contention. With such evidence, the sham character of the disputed documents becomes increasingly clear.

Third, defendant's act in not taking the witness stand weighs heavily against her cause. x x x, such an actuation did much in showing the weakness of her defense no less different in implication to an admission by silence as provided for in the Rules on Evidence. In the fact of the denunciations against the authenticity and integrity of the deeds of sale in her favor, her testimony was of vital importance in laying out the circumstances behind the supposed transactions, more so that her relationship with Fajardo had been brought to the fore. Without it, her cause is doomed to failure.[4]

On appeal, the Court of Appeals affirmed the trial court's judgment, but with modification on the award of damages, thus:

WHEREFORE, premises considered, the appealed decision in Civil Case No. 276-M-91 is hereby AFFIRMED with MODIFICATIONS in that the award of actual damages in the sum of P200,000.00 is DELETED while the award of moral and exemplary damages are hereby REDUCED to P100,000.00 and P50,000.00, respectively.

Costs against the defendant-appellant.

SO ORDERED."

Petitioner filed a Motion for Reconsideration of the appellate court's Decision, but it was denied in its Resolution dated January 9, 2001.[5]

Hence, this Petition for Review on Certiorari alleging that the Court of Appeals erred:

- In nullifying the Deed of Absolute Sale executed by Josefina Jacinto on August 2, 1978;
- In nullifying the Deeds of Sale executed by Conrado Fajardo in favor of petitioner;
- In ordering the cancellation of TCT No. T-288789 and the reconveyance of the subject lots to respondents; and
- In ordering petitioner to account for and turn over the rents to respondents and to pay them damages.

Obviously, the above issues being raised by petitioner are factual in nature, the determination of which involves a review and evaluation of the evidence presented by the parties during the trial. We have consistently held that this Court is not a trier of facts and it is not its function to examine the evidence all over again.[6] Basic is the rule that in a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, as in this case, only questions of law shall be entertained since factual issues are beyond the province of this Court. Such

petition will be granted only when there are special and important reasons therefor.[7] Petitioner, however, utterly failed to show any of such reasons. Likewise, we have ruled that where, as here, the factual findings of the trial court are affirmed by the Court of Appeals, the same are binding and conclusive upon this Court and, generally, will not be disturbed on appeal.[8] Our pronouncement in *Ocampo v. Ocampo* is relevant, thus:

It is a settled doctrine that in a civil case, final and conclusive are the factual findings of the trial court if supported by clear and convincing evidence on record. Usually, the Supreme Court does not review those findings - especially when affirmed by the Court of Appeals, as in this case x x x. From the records of the present case, no cogent evidence appears that would impel us to apply the above doctrine differently. The courts below have not overlooked essential facts that, if considered, may, produce a different outcome.

WHEREFORE, we DENY the instant petition and AFFIRM the challenged Decision of the Court of Appeals in CA-G.R. CV No. 50921. Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justice Salome A. Montoya (retired) and Associate Justice Romeo J. Callejo, Sr. (now a member of this Court), Rollo, pp. 182-187.

[2] A portion of Lot 3072-A of the subdivision plan PSD-41307 of the cadastral survey of Baliuag, GLRO Cad. Rec. No. 784.

[3] Rollo, pp. 91-96.

[4] *Id.*, pp. 93-94.

[5] *Id.*, p. 204.

[6] *Rubiato v. Heirs of Jovito Rubiato*, G.R. No. 137451, July 28, 2005, 464 SCRA 296, citing *Langkaan Realty Development, Inc. v. United Coconut Planters Bank*, 347 SCRA 542 (2000), *Lantin v. Court of Appeals*, 402 SCRA 202 (2003), *Heirs of William Sevilla v. Sevilla*, 402 SCRA 501 (2003).

[7] *Central Bank of the Philippines v. Castro*, G.R. No. 156311, December 16, 2005, 478 SCRA 235, 246.

[8] *Id.*, citing *Ma. Consolacion Lazaro v. Hon. Court of Appeals, et al.*, 372 SCRA 308 (2001).

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