

**CARMELITA S. SANTOS, NELIE S. MARAVILLA, NONENG S. DIANCO,
REYME L. SANTOS, ANGEL L. SANTOS, BIENVENIDO L. SANTOS,
JAIME L. SANTOS, ANGEL L. SANTOS III, AND ENRIQUE L. SANTOS,
P...**

G.R. No. 148218. April 29, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioners are the plaintiffs in a civil case for recovery of a sum of money in the Regional Trial Court, Branch 272, Marikina City. They filed a motion for the production of the originals of the documents offered in evidence by respondent Philippine National Bank (PNB) and the examination of the documents by the National Bureau of Investigation, but their motion was denied by the trial court. Petitioners therefore brought a special civil action for certiorari in the Court of Appeals, but their action was likewise dismissed. Hence, this petition for review on certiorari of the decision of the Court of Appeals and its resolution denying reconsideration.[1]

The facts are not in dispute. Petitioners are the children of Angel C. Santos, who died in Marikina City on March 21, 1991.[2] A few years after his death, petitioners discovered that the decedent had a time deposit in respondent Philippine National Bank. According to respondent PNB, the time deposit was later converted to a Premium Savings Account, the balance of which as of April 8, 1997 was P1,877,438.83. However, when petitioners tried to withdraw from the deposit, the bank, through respondent Lina B. Aguilar, its branch manager in Sta. Elena, Marikina City, disallowed the withdrawal on the ground that a certain Bernardito Manimbo had claimed the deposit and had in fact withdrawn considerable amounts a few years before.[3] The PNB claimed that Manimbo had presented (1) an Affidavit of Self-Adjudication allegedly executed by Reyme L. Santos, one of the petitioners in this case, in which it was made to appear that he was the sole heir of Angel C. Santos; and (2) a Special Power of Attorney also allegedly executed by petitioner Reyme L. Santos appointing Angel P. Santos and Bernardito Manimbo his attorneys-in-fact.[4]

Claiming that these documents were falsified,[5] on May 10, 1998, petitioners brought suit against respondent PNB and its branch manager Lina B. Aguilar for recovery of the deposit. The suit was filed in the Regional Trial Court, Branch 272, Marikina City.[6] In due time, respondents filed their answer to the complaint, attaching photocopies of the Affidavit of Self-Adjudication and Special Power of Attorney. Respondents also filed a third-party complaint against Bernardito Manimbo, Angel P. Santos, and The Capital Insurance and Surety Co., Inc.[7]

Petitioners sought the production of the originals of respondents' exhibits at the hearing on March 23, 2000, during which the continuation of the cross-examination of respondent Lina B. Aguilar was scheduled.[8] Petitioners' motion was granted and respondents were ordered to produce the original documents sought by petitioners.[9] In her cross-examination on May 4, 2000, respondent Aguilar said that she did not verify, at the time it was presented to her, whether the Special Power of Attorney was indeed executed by Reyme L.

Santos.[10]

Respondents were thereafter given 10 days to file a written formal offer of their evidence.[11] Respondent bank formally offered its evidence, submitting mere photocopies of the Affidavit of Self-Adjudication and Special Power of Attorney allegedly executed by petitioner Reyne L. Santos.[12] Petitioners objected to the admission of the photocopies of the Affidavit of Self-Adjudication and Special Power of Attorney on the ground that the documents and Reyne L. Santos' signature appearing thereon had been forged.[13] For this reason, petitioners filed on June 1, 2000 a motion for production of the originals of the documents and for their examination by the National Bureau of Investigation (NBI). Petitioners submitted 15 original signatures of petitioner Reyne L. Santos written on bond paper, as well as three checks signed by him.[14]

In response thereto, respondents contended that (1) the genuineness and due execution of the Affidavit of Self-Adjudication and Special Power of Attorney of Reyne L. Santos were deemed to have been admitted by petitioners when the latter failed to deny them specifically under oath; (2) the forgery of the documents had not been put in issue in the case; and (3) in his affidavit executed on October 19, 1999, Reyne L. Santos had admitted the genuineness and due execution of the special power of attorney.[15]

In reply, petitioners argued that (1) the genuineness and due execution of the documents had been denied under oath by them in their complaint; (2) the issue of forgery was covered by issues number 1, 2, and 8 of the court's pre-trial order; and (3) petitioner Reyne L. Santos never admitted in his affidavit the genuineness and due execution of the special power of attorney.[16]

On July 6, 2000, the trial court denied the motion for production in open court and directed petitioners to seek the assistance of the NBI.[17]

On July 31, 2000, petitioners filed a motion to revive the motion for examination of the documents, alleging that their request for examination of the documents by the NBI could not be granted without an order from the court.[18] However, on August 17, 2000, the trial court denied petitioners' motion and instead gave petitioners a last chance to seek the assistance of the NBI, but without issuing an order to this effect to the NBI.[19]

For this reason, petitioners' counsel wrote the NBI requesting the examination of the documents.[20] On August 18, 2000, Atty. Sancho K. Chan, Jr., Deputy Director, Technical Services of the NBI, denied petitioners' request, reiterating that the NBI could not examine the documents without submission of the originals of the documents in question and a court order for the examination of the same.[21]

On August 28, 2000, petitioners therefore filed a motion for reconsideration of the order denying their motion for the examination of the documents,[22] but the same was denied by the trial court in its order of September 4, 2000.[23] On November 27, 2000, they filed a petition for certiorari with the Court of Appeals, charging that:

Respondent judge abused his discretion amounting to lack of jurisdiction in denying petitioners' motion for production of original documents and for examination by the National Bureau of Investigation.[24]

On April 11, 2001, however, the Court of Appeals rendered a decision denying their petition for certiorari. The appeals court stated:

Under the circumstances obtaining in the case at bench, respondent Judge's denial of the petitioners' motions cannot be an act of grave (abuse of) discretion as alleged. The propriety of denial of the petitioners' motions does not appear to be infirm, considering that the assailed orders were in accord with the requirements of the NBI, as shown by its letter (signed by Atty. Sancho K. Chan, Jr., Deputy Director for Technical Services of the Questioned Documents Department) dated August 18, 2000 which was actually addressed to the petitioners — "Furthermore, it is required that the documents to be examined both the questioned and the standard signatures

and/ or handwritings should be the originals thereof since the experts need them in order that conclusive opinion can be made of the findings. Likewise, it is necessary that there are sufficient standards of no less than twelve (12) signatures and handwritings of M[r]. REYME L. SANTOS which are admitted by him to be his or they are signatures affixed on a public instrument. These standards should be submitted with the questioned document through the Honorable Court pursuant to its Order earlier mentioned.”

As correctly pointed out by the respondents in their Comment, petitioners failed to comply with the requirements of examining a document set by the NBI. Hence, the denial of petitioners’ motions. Besides, it must be stressed that motions for continuance or deferment of hearings (such as in this case) are granted only upon meritorious grounds and the grant or denial thereof is addressed to the sound discretion of the court the exercise of which will not be disturbed except on a showing of a patent and grave abuse of discretion.

WHEREFORE, premises considered, the present petition is hereby DENIED DUE COURSE and accordingly DISMISSED, for lack of merit.

No pronouncement as to costs.

SO ORDERED.[25]

Petitioners filed a motion for reconsideration,[26] but their motion was likewise denied. Hence this appeal.

We find the petition to be meritorious.

The general rule, and indeed a fundamental principle of appellate procedure, is that decisions of a trial court which lie in its discretion will not be set aside on appeal. This is true whether the case is civil or criminal, and whether the case is one at law or in equity. But where the exercise of discretionary power by an inferior court affects adversely the substantial rights of a litigant, the exercise of such discretion becomes a proper subject of review on appeal. Affirmative relief will be granted upon a clear showing of a grave abuse of discretion. After all, the discretion conferred upon trial courts is a sound discretion which should be exercised with due regard to the rights of the parties and the demands of equity and justice.[27]

In this case, the action of the Court of Appeals, in denying petitioners’ request for the production of documents used by respondent bank in its defense and the examination of such documents by experts, amounts to a grave abuse of discretion on the part of the appeals court. For contrary to the finding of the trial court and the Court of Appeals, petitioners’ failure to secure assistance from the NBI was not of their own making. A requirement of the NBI is that if documents are the subject of litigation, the NBI will examine them only if an order is issued by a court for their examination. Thus, Memorandum Order No. 78, s. 1998, of the Director of the NBI states:

- Request for questioned document examination by any investigative/intelligence command must be duly approved by the Deputy Director of the command requesting for the examination;
- No examination shall be conducted by the Questioned Document Division on any document if the case is already pending before the Prosecutor’s Office or any Judicial body without a written order coming from said body directing the Bureau to conduct the examination;
- In case a complaint for Falsification of Public/Official/Commercial Document is filed before the Bureau and the main cause of action is the genuineness or falsity of a particular document, Questioned Document Examination can only be conducted by the Questioned Document Division if there is a clear showing in the request by the investigative/ intelligence command that both parties, especially the Subject, had been given ample notice in writing to submit sample signatures of the person whose signature is being questioned for submission to the Questioned Document Division for the required comparative examination;

- In case the signature being questioned is the signature of a public official appearing in a public/official document (Marriage Certificate, Transfer Certificate of Title, Corporate Documents, LTO Documents, and the like) affixed in the ordinary course of official business and the specimen signature could be secured from the government office where he is/was employed, notice to the Subject is not an indispensable requirement for the conduct of the examination by the Questioned Document Division.[28]

In his letter, dated August 18, 2000, to petitioners' counsel, Atty. Sancho K. Chan, Jr., Deputy Director for Technical Services, mentioned the need for a court order, as well as additional requirements:

Dear Atty. Rosario, Jr.:

Referring to your herein attached letter dated August 17, 2000 desiring that certain documents subject of a Civil Case pending before the Regional Trial Court, Branch 273, Marikina City wherein the signatures of REYME L. SANTOS are in question, please be advised that our experts in this Bureau can only render such service upon order of the court concerned on motion of the interested party. In said motion, movant must manifest that he/she is willing to replace all the materials used in the examinations and that in the event that the expert testifies before the court the same party will pay for the travelling expenses incurred the labor aspect in this respect is free of charge.

Furthermore, it is required that the documents to be examined both the questioned and the standard signatures and/or handwritings should be the originals thereof since the experts need them in order that conclusive opinion can be made of the findings. Likewise, it is necessary that there are sufficient standards of no less than twelve (12) signatures and handwritings of M[r]. REYME L. SANTOS which are admitted by him to be his or they are signatures affixed on a public instrument. These standards should be submitted with the questioned document thru the Honorable Court pursuant to its Order earlier mentioned.

Until such order and the complete requirements are received by the NBI, Questioned Document Division (QDD) of this Service, your request will be held in abeyance.

Please acknowledge as we assure that utmost cooperation will always be available to whoever is concerned in the interest of truth and justice.[29]

Except for the court order and the submission of the originals of the documents, petitioners complied with all these requirements. They submitted a motion for examination of the documents, together with eighteen (18) specimen signatures of petitioner Reyme L. Santos. They expressed their willingness to replace the materials that would be used in the examination and to pay for the traveling expenses of the experts who would testify. Clearly, it was up to the trial court to determine whether an inspection should take place. The NBI merely held petitioners' request in abeyance until the court issued an order and transmitted the specimen signatures to the agency.[30]

Rule 27, §1 provides:

Motion for production or inspection; order.— Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control

It has been held that where the requisite circumstances exist, a party may be entitled to the production of records for inspection, copying, and photocopying as a matter of right.[31] The trial court was in error in ruling that the genuineness and due execution of the questioned documents had been admitted by petitioners, thereby foreclosing the possibility of having the signatures subjected to inspection and handwriting analysis and preventing petitioners from contradicting respondents' assertion that a valid withdrawal of the decedent's deposit had been made, when

no such admission had been made by them.

It was equally error for it to deny petitioners' motion for continuance or deferment of the hearings to give petitioners time to secure the documents needed for their case against respondents.[32]

WHEREFORE, the decision of the Court of Appeals, dated April 11, 2001, and its resolution, dated May 23, 2001, are REVERSED and respondents are ORDERED to produce the documents sought by petitioners and to direct the NBI to examine the same.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, De Leon, Jr., and Corona, JJ., concur.

[1] Per Associate Justice Martin S. Villarama, Jr., as concurred in by Associate Justices Conrado M. Vasquez, Jr. and Eliezer R. de los Santos.

[2] TSN (Carmelita Santos), p. 8, Sept. 2, 1999.

[3] TSN (Carmelita Santos), pp. 20-66, Sept. 2, 1999; Affidavit of Lina Aguilar dated Jan. 25, 2000, RTC Records, pp. 340-342; Certificate of Time Deposit, RTC Records, p. 318; Fixed Deposit Form No. 1 and PSA Form No. 1 of PNB, RTC Records, pp. 302-305.

[4] TSN (Lina Aguilar), pp. 112-156, Feb. 24, 2000.

[5] Complaint, p. 5; Rollo, p. 24; TSN (Carmelita Santos), pp. 70, 111, Sept. 2, 1999.

[6] RTC Records, pp. 1-8.

[7] Id., pp. 31-75, 82-87.

[8] Id., p. 298.

[9] Order dated March 23, 2000; RTC Records, p. 301.

[10] TSN (Lina Aguilar), p. 76, May 4, 2000.

[11] Order dated May 4, 2000; RTC Records, p. 311.

[12] Exhs. 2-D, 2-G; RTC Records, pp. 320, 323.

[13] RTC Records, pp. 358-359.

[14] Id., pp. 352-357; Petition, Annex E; Rollo, pp. 43-44, 56-59.

[15] RTC Records, pp. 363-368.

[16] Id., pp. 371-374.

[17] Petition, p. 3; Rollo, p. 10.

[18] RTC Records, pp. 377-378; CA Rollo, p. 44.

[19] Petition, p. 3; Rollo, p. 10. The last hearing recorded in the transcript of stenographic notes transpired on July 6, 2000.

[20] CA Rollo, p. 45.

[21] *Id.*, pp. 46-47.

[22] RTC Records, pp. 387-390.

[23] *Id.*, p. 399.

[24] CA Rollo, pp. 2-10.

[25] Rollo, pp. 60-63.

[26] CA Rollo, pp. 72-77.

[27] *Lino Luna v. Arcenas*, 34 Phil. 80 (1916).

[28] CA Rollo, p. 44 (emphasis added).

[29] *Id.*, p. 46 (emphasis in the original).

[30] Motion for Production of Original Documents and for Examination by the National Bureau of Investigation, Records, pp. 352-357.

[31] 35A C.J.S. §699.

[32] See *Republic v. Sandiganbayan*, 301 SCRA 237 (1999); *v. Court of Appeals*, 304 SCRA 216 (1999); *Pepsi Cola Products Phils., Inc. v. Court of Appeals*, 229 SCRA 518 (1998).

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