LORETA AGUSTIN CHONG, ALSO KNOWN AS LORETA GARCIA AGUSTIN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, SPOUSES PEDRO AND ROSITA DE GUZMAN AND FORTUNE DEVELOPMENT CORPORATION...

G.R. NO. 148280. July 10, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari assails the September 14, 2000 Decision[1] of the Court of Appeals in CA-G.R. CV No. 47487, which affirmed the August 8, 1994 Decision[2] of the Regional Trial Court of Manila, Branch 7 in Civil Case No. 89-50138 dismissing petitioner's complaint, and ordering her to pay P50,000.00 as moral damages, P10,000.00 as attorney's fees and costs of the suit, as well as the May 28, 2001 Resolution which denied petitioner's motion for reconsideration.

On August 25, 1989, petitioner Loreta Agustin Chong filed a Complaint[3] for annulment of contracts and recovery of possession against respondent-spouses Pedro and Rosita de Guzman, and Fortune Development Corporation before the Regional Trial Court of Manila.

Petitioner alleged that she is the common-law wife of Augusto Chong; that on February 13, 1980, she bought a parcel of land (subject lot) from respondent corporation as evidenced by Contract to Sell No. 195, particularly described as follows:

> "A parcel of land (Lot 1 Block 4, of the consolidation-subdivision plan (LRC) Pcs-18730, being a portion of the consolidation of Lot 4522 and 4524, Parañaque Cadastre, Lots 1 & 2 (LRC) Psd-169203) L.R.C. Rec. Nos. N-27442, N-27463, N-13960), situated in the Barrio of San Dionisio, Province of Rizal, containing an area of TWO HUNDRED SIXTY SIX (266) square meters, more or less."

She further alleged that by virtue of a special power of attorney she executed in favor of Augusto, the latter sold the subject lot to respondent-spouses under the Transfer of Rights and Assumption of Obligation dated January 30, 1984 allegedly for P80,884.95 which petitioner or Augusto never received, thus, said sale is null and void for lack of consideration; and that despite repeated demands, respondent-spouses refused to turn over the possession of the subject lot to petitioner.

Petitioner likewise denied selling the house constructed on the subject lot to respondent-spouses for P25,000.00, claiming that she could not have executed the Deed of Sale because at the time it was allegedly notarized on February 24, 1987, she was working in Hong Kong as a domestic helper. Thus, said sale is void for being a forgery. Petitioner alleged that despite repeated demands, respondent-spouses refused to surrender the possession of the aforesaid house.

Petitioner also claimed that she is the owner of a house located at 1191 P. Zapanta, Singalong, Manila; that without her knowledge and consent, respondent-spouses rented said house to other persons and collected rent; and

that despite repeated demands, respondent-spouses refused to return the possession of the house as well as the rentals collected therefrom.

Petitioner prayed that the Transfer of Rights and Assumption of Obligation as well as the Deed of Sale be declared null and void; that respondent-spouses be ordered to turn over the possession of the houses and lots in Parañaque and Singalong to petitioner; and that respondents indemnify her for actual, moral and exemplary damages as well as attorney's fees.

Respondent-spouses moved to dismiss[4] the complaint for failure to state a cause of action but it was denied by the trial court. On December 11, 1989, respondent-spouses filed their Answer[5] to the Complaint while respondent corporation failed to file its answer within the reglementary period hence, it was declared in default.

During the pre-trial, respondent-spouses orally moved for leave of court to file an amended answer which was granted. On May 18, 1990, respondent-spouses filed their Amended Answer with Counterclaim.[6] Petitioner filed a Motion to Strike Out Amended Answer[7] alleging that no prior written motion for leave to file amended answer was filed in violation of Section 3, Rule 10 of the Rules of Court and that the amended answer contained substantial amendments, but same was denied by the trial court in an Order[8] dated July 16, 1990.

In their amended answer, respondent-spouses asserted that the Transfer of Rights and Assumption of Obligation was supported by sufficient consideration; that they paid P125,000.00, and not P25,000.00 as alleged by petitioner, for the house on the subject lot; that the Deed of Sale over the house constructed on the subject lot was signed by petitioner on February 22, 1987 while she was still in the country but it was notarized only on February 24, 1987 or after she had left to work abroad; that petitioner failed to allege or submit any actionable document to prove her claim of ownership; that the house located in Singalong is owned by respondent-spouses; and that petitioner's complaint is malicious and baseless which entitles them to actual, moral, exemplary and nominal damages, as well as attorney's fees.

After trial on the merits, the trial court rendered a Decision finding thus:

> The Court is convinced that the document entitled Transfer of Rights and Assumption of Obligation is sufficiently supported by valuable consideration. The evidence presented by the [respondent-spouses] has shown that for the house and lot [respondent-spouses] paid almost P480,000.00 and this definitely is more than sufficient compensation for the house and lot in question. The Court believes, considering the evidence on record, that [petitioner] on February 22, 1987 received the amount of P25,000.00 from Pedro de Guzman before she left for Hongkong. Unfortunately, the document was not notarized on that day but two days thereafter. The Court also believes that it was the [respondent- spouses] who paid the sum of P105,000.00, the obligation of Augusto Chong and [petitioner] to Rosario Cabelin and as a consequence, all the documents pertaining thereto were given to the [respondent-spouses] by Rosario Cabelin. The Court also notes that [petitioner] and Augusto Chong could not even agree as to who was indebted to Rosario Cabelin. [Petitioner] tried to deny that she was indebted to Rosario Cabelin while Augusto Chong claimed that it was [petitioner] who was indebted to Rosario.
>
> The Court, therefore, considering those inconsistencies of the [petitioner] and her paramour refuses to believe their testimonies.
>
> On the other hand, the Court finds the testimony of [respondent Pedro de Guzman] and his witnesses to be believable and consistent with the evidence received by it.
>
> It is clear from the aforementioned discussion that [petitioner] has failed to prove by a preponderance of evidence her causes of action against [respondents]. On the other hand, [respondents] have shown the baselessness of the complaint filed by [petitioner].

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> WHEREFORE, premises considered, judgment is rendered for [respondents] by dismissing the complaint and sentencing [petitioner] to pay the [respondents] P50,000.00 as moral damages plus P10,000.00 as attorney's fees, plus costs of suit.[9]

Petitioner appealed to the Court of Appeals which rendered the assailed Decision affirming in toto the decision of the trial court.

Hence, the instant petition.

Petitioner raises four issues, to wit: (1) whether the trial court erred in admitting respondent-spouses' amended answer in violation of Section 3, Rule 10 of the Rules of Court, (2) whether petitioner was deprived of due process when during the pre-trial, respondent-spouses failed and refused to furnish her copies of the documents that they intended to present, in violation of Section 6, Rule 18 of the Rules of Court, (3) whether the trial court erred in not finding that the Transfer of Rights and Assumption of Obligation dated January 30, 1984 was void or, in the alternative, unenforceable as against petitioner.

Petitioner claims that the trial court erred in granting respondent-spouses' oral manifestation or motion for leave to file an amended answer. She argues that respondent-spouses should have filed a written motion for leave to file an amended answer, pursuant to Section 3,[10] Rule 10 of the Rules of Court. She argues that the purpose of the rule is to help the trial court determine whether the proposed amendments constitute substantial amendments to their original answer and whether the motion is intended to delay the proceedings, as well as to give the adverse party an opportunity to be heard.

The contention lacks merit.

The trial court allowed respondent-spouses to amend their answer after it observed that their original answer merely contained specific denials without clearly setting forth, as far as practicable, the truth of the matter upon which they rely to support such denial as required under Section 10,[11] Rule 8 of the Rules of Court. Further, after denying the material allegations in the Complaint, respondent-spouses merely stated in their original answer that "[a]ll other arguments embodied in [their prior] motion to dismiss are reiterated as part of the special and affirmative defenses herein."[12] Under these conditions, the trial court justifiably deemed it necessary for respondent-spouses to amend their answer in order to sufficiently clarify the issues to be tried and thereby expedite the proceedings. In granting respondent-spouses' motion to file an amended answer, the trial court acted within its discretion pursuant to Section 2, Rule 18 of the Rules of Court:

> SEC. 2. Nature and purpose. — The pre-trial is mandatory. The court shall consider:
>
> x x x x
>
> (c) The necessity or desirability of amendments to the pleadings;

Trial court allowed the filing of an amended answer to avoid multiplicity of suits, to determine the real controversies between the parties and to decide the case on the merits without unnecessary delay, all of which form the bases for the liberality of the rule in allowing amendments to pleadings.[13] This was in consonance with the basic tenet that the Rules of Court shall be liberally construed to promote the just, speedy and inexpensive disposition of every action.[14]

Petitioner next asserts that during the pre-trial, respondent-spouses did not furnish her with copies of the documents that they intended to present, in violation of Section 6,[15] Rule 18 of the Rules of Court. Petitioner claims that she was denied due process and that the trial court gave respondent-spouses undue advantage during the trial of this case.

Petitioner's contention lacks merit.

The records show that respondent-spouses' Pre-Trial Brief[16] dated April 10, 1990 enumerated the documents to be presented during the trial as well as the purposes of their presentation. Although copies of the documents enumerated therein were not attached to the Pre-Trial Brief, they were nonetheless previously attached to respondent-spouses' Motion To Dismiss[17] dated September 8, 1989, Reply[18] to petitioner's opposition to the motion to dismiss dated September 25, 1989, and Amended Answer With Counterclaim[19] dated May 11, 1990, all of which were copy furnished to petitioner. During trial, petitioner was afforded every opportunity to examine respondent-spouses' documentary evidence, and to controvert the same. Petitioner even cross-examined respondent-spouses on these documents at length and challenged their validity during the presentation of both her evidence-in-chief and rebuttal evidence. Consequently, petitioner can not now claim that she was denied due process and that she was unable to adequately prosecute her case.

Petitioner's main contention rests on the alleged nullity or, in the alternative, unenforceability of the Transfer of Rights and Assumption of Obligation dated January 30, 1984.

We agree with the findings of the lower courts that the parties voluntarily executed the Transfer of Rights and Assumption of Obligation dated January 30, 1984 and that the same was supported by valuable consideration. The evidence on record sufficiently established that on February 13, 1980, petitioner bought the subject lot from respondent corporation under Contract to Sell No. 195 and thereafter, began paying the stipulated monthly installments thereon. On April 18, 1983, she executed a Special Power of Attorney[20] in favor of Augusto Chong, granting the latter the power to "mortgage, encumber, sell and dispose the property (subject lot) under such terms and conditions which my said attorney (Augusto) may deem acceptable x x x" and "pay any/all my valid obligations to the proper person/s x x x."[21] On July 1, 1983, one Rosario Cabelin filed a complaint for sum of money against petitioner and Augusto with the Regional Trial Court of Pasay City which was docketed as Civil Case No. 1102-P. Under threat of preliminary attachment, petitioner, who was then working as a domestic helper in Hong Kong, sought the assistance of respondent-spouses to settle the case. Subsequently, Rosario, Augusto and petitioner, with Augusto acting as petitioner's attorney-in-fact, entered into a Compromise Agreement[22] dated July 25, 1983 wherein petitioner and Augusto agreed to pay the amount of P55,000.00 to Rosario. To guarantee the payment of the remaining balance of the debt in the amount of P105,000.00, Augusto, again acting as petitioner's attorney-in-fact, executed a Deed of Sale with Right to Repurchase[23] dated July 25, 1983 over the subject lot in favor of Rosario in consideration of the aforesaid sum. In addition, Augusto, respondent-spouses, Gualberto and Fe Arceta jointly and severally promised to pay the aforesaid sum on or before July 24, 1984 under a Promissory Note[24] dated July 24, 1983.

Sometime in December 1983, Rosario demanded payment of the remaining balance of the debt. Respondent-spouses agreed to pay Rosario the amount of P105,000.00 provided petitioner will transfer her rights over the subject lot to them. Thus, after respondent-spouses had paid Rosario, Augusto, acting under the aforementioned Special Power of Attorney, executed a Transfer of Rights and Assumption of Obligation[25] dated January 30, 1984 in favor of respondent-spouses and with the conformity of respondent corporation. Correspondingly, Rosario executed a Quitclaim[26] in favor of Augusto releasing him from the aforementioned Deed of Sale with Right to Repurchase and Promissory Note. Thereafter, respondent-spouses paid the remaining monthly installments and transferred the title over the subject lot in their names as evidenced by Transfer Certificate of Title No. 1292[27] issued on January 21, 1988.

Petitioner asserts, however, that the Transfer of Rights and Assumption of Obligation is null and void because it lacked valuable consideration. She claims that she executed the Special Power of Attorney in favor of Augusto with the understanding that the subsequent transfer of the subject lot to respondent-spouses would be merely

simulated ("kunwarian").[28] She claims that respondent-spouses and her nieces enticed her into executing the Special Power of Attorney because Augusto might sell the subject lot while petitioner is abroad and use the proceeds thereof to support his children with his legal wife.[29] Thus, petitioner agreed to execute the Special Power of Attorney in favor of Augusto for the sole purpose of transferring the subject lot in the name of respondent-spouses through a simulated sale.

We are not persuaded.

If petitioner believes that Augusto would appropriate the property during her absence, then she should not have executed the Special Power of Attorney in his favor authorizing him to dispose of the subject lot. If it was truly her intention to prevent Augusto from disposing the subject lot, then she could have simply retained the rights over the subject lot in her name or directly transferred the same to the name of respondent- spouses before she left for Hong Kong. Notably, when petitioner was presented as a witness during the presentation of her rebuttal evidence, she claimed that she executed the Special Power of Attorney to help her nieces, Gualberto and Fe Arceta, secure a loan for the purported repair of the latter's duplex house.[30] Augusto was allegedly appointed as petitioner's attorney-in-fact so that the former could act as a co-maker of the loan.[31] Unfortunately for petitioner, these inconsistencies cast doubt on her credibility.

Petitioner's claim that Augusto was not empowered to dispose of the subject lot in order to pay off an alleged debt she owed to Rosario, is not worthy of belief. The clear and unmistakable tenor of the Special Power of Attorney reveals that petitioner specifically authorized Augusto to sell the subject lot and to settle her obligations to third persons. The Special Power of Attorney is a duly notarized document and, as such, is entitled, by law, to full faith and credit upon its face.[32] Notarization vests upon the document the presumption of regularity unless it is impugned by strong, complete and conclusive proof.[33] Rather than challenging its validity, petitioner admitted in open court that she signed the Special Power of Attorney with a full appreciation of its contents[34] and without reservation.[35]

Petitioner likewise admitted that Rosario was her creditor when she was first presented as a witness during the reception of evidence.[36] Even petitioner's own witness, Augusto, testified that petitioner was indebted to Rosario due to a failed business venture involving a store in Baclaran, Manila.[37] In her Letter[38] dated February 6, 1984 to respondent- spouses, petitioner, likewise, admitted that she was indebted to Rosario and sought the assistance of respondent-spouses to help pay off her debts.

In fine, the evidence on record sufficiently established that petitioner's rights over the subject lot were validly transferred to respondent-spouses in consideration of the latter's payment of petitioner's debts to Rosario. When Augusto executed the Transfer of Rights and Assumption of Obligations on behalf of petitioner, he was acting within his powers under the Special Power of Attorney for valuable consideration. In a contract of agency, the agent acts in representation or in behalf of another with the consent of the latter,[39] and the principal is bound by the acts of his agent for as long as the latter acts within the scope of his authority.[40] Hence, the Transfer of Rights and Assumption of Obligations is valid and binding between the parties.

Lastly, petitioner impugns the jurisdiction of the Pasay City RTC in Civil Case No. 1102-P on the ground that it never acquired jurisdiction over her person because summons were allegedly not properly served on her, and that she never authorized Augusto to enter into the compromise agreement in said case on her behalf. According to petitioner, she was in Hong Kong when the collection suit was filed by Rosario against her and Augusto. In short, she assails the validity of the judgment based on compromise agreement since the proceedings in Civil Case No. 1102-P were presumably terminated after the parties entered into a Compromise Agreement dated July 25, 1983. She posits that all the documents signed by Augusto on her behalf, specifically, the Compromise Agreement dated

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July 25, 1983, Deed of Sale with Right to Repurchase dated July 25, 1983, and Transfer of Rights and Assumption of Obligation dated January 30, 1984, are unenforceable as against her.

Petitioner's contention must likewise fail.

A judgment based on a compromise agreement is a judgment on the merits wherein the parties have validly entered into stipulations and the evidence was duly considered by the trial court that approved the agreement.[41] It is immediately executory and not appealable unless set aside on grounds of nullity under Article 2038[42] of the Civil Code,[43] and has the effect of a judgment of the court.[44] Further, well-entrenched is the rule that a party may attack the validity of a final and executory judgment through three ways:

> The first is by petition for relief from judgment under Rule 38 of the Revised Rules of Court, when judgment has been taken against the party through fraud, accident, mistake or excusable negligence, in which case the petition must be filed within sixty (60) days after the petitioner learns of the judgment, but not more than six (6) months after such judgment was entered. The second is by direct action to annul and enjoin the enforcement of the judgment. This remedy presupposes that the challenged judgment is not void upon its face, but is entirely regular in form, and the alleged defect is one which is not apparent upon its face or from the recitals contained in the judgment. x x x "under accepted principles of law and practice, long recognized in American courts, the proper remedy in such case, after the time for appeal or review has passed, is for the aggrieved party to bring an action enjoining the judgment, if not already carried into effect; or if the property has already been disposed of, he may institute suit to recover it." The third is either a direct action, as certiorari, or by a collateral attack against the challenged judgment (which is) void upon its face, or that the nullity of the judgment is apparent by virtue of its own recitals. As aptly explained by Justice Malcolm in his dissent in Banco Español-Filipino v. Palanca, supra, "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power so to do exists."

In the case at bar, the want of jurisdiction of the Pasay RTC in Civil Case No. 1102-P due to the alleged non-service of summons has not been established by petitioner. The judgment based on compromise agreement made therein was likewise not established as being void upon its face. Except for the self-serving allegation that she was in Hong Kong when the collection suit was filed, petitioner did not present competent proof to prove that she was not properly served with summons. Even if it were true that she was abroad when the collection suit was filed against her, summons could still be served through extraterritorial service under Section 16[45] in relation to Section 15,[46] of Rule 14 of the Rules of Court. Undeniably, the Pasay City RTC in Civil Case No. 1102-P enjoys the presumption of regularity in the conduct of its official duties which was not fully rebutted by petitioner.

Petitioner bewails that the records of Civil Case No. 1102-P was destroyed due to a fire that gutted the Pasay City Hall Building on January 18, 1992 as evidenced by a Certification[47] dated November 6, 2001 issued by the Office of the Clerk of Court, RTC, Pasay City. However, petitioner was not without recourse considering that she could have filed a petition for the reconstitution of the records of said case, and thereafter, sought the annulment of the judgment therein, if warranted. The procedure for the reconstitution of records could have been done either under Act No. 3110,[48] which is the general law that governs the reconstitution of judicial records, or under Section 5(h)[49] of Rule 135 of the Rules of Court which recognizes the inherent power of the courts to reconstitute at any time the records of their finished cases.[50] Since petitioner failed to avail of the proper remedies before the proper forum, we cannot rule on, much less disturb, the validity of the proceedings before the Pasay City RTC in Civil Case No. 1102-P.

At any rate, whether or not petitioner was properly served with summons in Civil Case No. 1102-P, and that Augusto was not authorized to enter into the Compromise Agreement dated July 25, 1983 on her behalf, will not affect the outcome of this case. There is sufficient evidence on record to establish that petitioner impliedly ratified

the compromise agreement as well as the other documents executed pursuant thereto. Implied ratification may take various forms such as by silence or acquiescence; by acts showing approval or adoption of the contract; or by acceptance and retention of benefits flowing therefrom.[51]

In the instant case, petitioner claimed that she learned of the transfer of the subject lot to respondent-spouses as part of the settlement in the collection suit in May 1985;[52] however, she did not take steps to immediately assail the alleged unauthorized transfer of the same. She failed to adequately explain why she waited four years later or until 1989 to file the subject complaint to annul the aforesaid documents. More importantly, instead of asserting her rights over the subject lot after discovering the alleged fraudulent and unauthorized transfer of the same to respondent-spouses in May 1985, petitioner subsequently sold the house constructed on the subject lot also to respondent-spouses on February 22, 1987 for the sum of P25,000.00. This act runs counter to the reaction of one who discovers that his or her property has been fraudulently conveyed in favor of another. Indubitably, this act only fortifies the previous finding that petitioner has authorized and consented to, or, at the very least, ratified the sale of the subject lot to respondent-spouses to pay off her debts to Rosario.

Petitioner alleges that the Deed of Sale[53] dated February 24, 1987 is a forgery. She denies having signed the aforesaid deed and claims that on February 24, 1987, the date when the deed was allegedly notarized, she was in Hong Kong working as a domestic helper.

The trial court and the Court of Appeals found otherwise. They gave credence to the claim of respondent Pedro de Guzman that petitioner signed the Deed of Sale and received the P25,000.00 consideration therefor on February 22, 1987 or two days before she left for Hong Kong. However, the deed was notarized only on February 24, 1987 as admitted by respondent Pedro de Guzman. The Court of Appeals noted that even a cursory examination of the signature appearing on the Deed of Sale would show that it was written by one and the same hand that signed the Contract to Sell which petitioner admits contained her signature.[54] In addition, Augusto admitted that he signed the deed as evidenced by the signature in the portion of the deed where he gave his marital consent to the sale.[55] Further, as per the request of petitioner in a Letter[56] dated February 22, 1987, respondent- spouses gave petitioner's son and sister the sum of P122,000.00 as additional consideration for the house built on the subject lot. Thereafter, petitioner's son and sister signed an Annotation[57] dated March 20, 1987 in said Letter acknowledging receipt of the aforesaid sum.

It was established that petitioner received valuable consideration for the sale of the house on the subject lot. Concededly, the notarization of the deed was defective as respondent Pedro de Guzman himself admitted that the deed was notarized only two days after petitioner had signed the deed and at which time she was already in Hong Kong. In short, petitioner did not appear before the notary public in violation of the Notarial Law[58] which requires that the party acknowledging must appear before the notary public or any other person authorized to take acknowledgments of instruments or documents.[59] Nevertheless, the defective notarization of the deed does not affect the validity of the sale of the house. Although Article 1358[60] of the Civil Code states that the sale of real property must appear in a public instrument, the formalities required by this article is not essential for the validity of the contract but is simply for its greater efficacy or convenience, or to bind third persons,[61] and is merely a coercive means granted to the contracting parties to enable them to reciprocally compel the observance of the prescribed form.[62] Consequently, the private conveyance of the house is valid between the parties.[63]

Based on the foregoing, we are satisfied that the sale of the subject lot and the house built thereon was made for valuable consideration and with the consent of petitioner. Consequently, we affirm the findings of the lower courts which upheld the validity of the transfer of petitioner's rights over the subject lot as well as the sale of the house built thereon in favor of respondent-spouses.

Anent petitioner's claim that she is the owner of another house located at 1191 P. Zapanta, Singalong, Manila, the same must similarly fail. Aside from the self-serving statement that she owns the house, petitioner merely presented a Metropolitan Waterworks and Sewerage System Official Water Receipt[64] dated December 7, 1979, a water installation Receipt[65] dated August 22, 1979, and a Manila Electric Company (Meralco) Warrant[66] to purchase a stock of Meralco Securities Corporation dated December 24, 1975, all in her name, to establish her claim. Suffice it to state, petitioner's evidence does not meet the quantum of proof necessary to establish that she is the rightful owner of the aforesaid house. At best, they prove that she resided in the aforesaid house sometime in the 1970s or long before she filed the subject complaint on August 25, 1989. Basic is the rule that in civil cases, the burden of proof is on the plaintiff to establish her case by a preponderance of evidence. If she claims a right granted or created by law, she must prove her claim by competent evidence. She must rely on the strength of her own evidence and not on the weakness of that of her opponent.[67] This, petitioner failed to do.

WHEREFORE, the petition is DENIED. The September 14, 2000 Decision of the Court of Appeals in CA-G.R. CV No. 47487 which affirmed the August 8, 1994 Decision of the Regional Court of Manila, Branch 7, in Civil Case No. 89-50138, dismissing the complaint, and ordering petitioner to pay P50,000.00 as moral damages, P10,000.00 as attorney's fees and costs of the suit, and its May 28, 2001 Resolution denying petitioner's motion for reconsideration, are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

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[1] Rollo, pp. 18-29. Penned by Associate Justice Conchita Carpio-Morales (now a member of this Court) and concurred in by Associate Justices Teodoro P. Regino and Perlita J. Tria Tirona.

[2] Records, pp. 599-620. Penned by Judge Enrico A. Lanzanas.

[3] Id. at 1-9.

[4] Id. at 12-19.

[5] Id. at 52-54.

[6] Id. at 101-115.

[7] Id. at 131-134.

[8] Id. at 155-156.

[9] Id. at 619-620.

[10] SEC. 3. Amendments by leave of court. — Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard.

[11] SEC. 10. Specific denial. — A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial x x x.

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[12] Records, p. 53.

[13] Shaffer v. Palma, 131 Phil. 22, 34 (1968).

[14] RULES OF COURT, Rule 1, Section 6.

[15] SEC. 6. Pre-trial brief. — The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

x x x x
(d) The documents or exhibits to be presented, stating the purpose thereof;

[16] Records, pp. 94-100.

[17] Id. at 12-33.

[18] Id. at 38-46.

[19] Id. at 101-115.

[20] Exhibit "4", records, p. 462.

[21] Id.

[22] Exhibit "5", records, pp. 463-464.

[23] Exhibit "3", id. at 459-461.

[24] Exhibit "2", id. at 457-458.

[25] Exhibit "9", id. at 475.

[26] Exhibit "10", id. at 476.

[27] Exhibit "13", id. at 491.

[28] TSN, October 15, 1990, p. 17.

[29] Id. at 9.

[30] TSN, August 19, 1993, p. 24.

[31] Id.

[32] Nunga v. Viray, 366 Phil. 155, 160 (1999).

[33] Sales v. Court of Appeals, G.R. No. 40145, July 29, 1992, 211 SCRA 858, 865.

[34] TSN, October 18, 1990, p. 8.

[35] TSN, November 20, 1990, p. 19.

[36] TSN, October 18, 1990, p. 24.

[37] TSN, August 30, 1993, pp. 5, 13.

[38] Exhibit "17", records, p. 498.

[39] Shopper's Paradise Realty and Development Corp. v. Roque, G.R. No. 148775, January 13, 2004, 419 SCRA

93, 99.

[40] CIVIL CODE, Article 1910 states:

The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

As for any obligation wherein the agent has exceeded his power, the principal is not bound except when he ratifies it expressly or tacitly.

[41] Romero v. Tan, G.R. No. 147570, February 27, 2004, 424 SCRA 108, 123.

[42] The provision reads in part:

Art. 2038. A compromise in which there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents, is subject to the provisions of Article 1330 of this Code.

[43] Romero v. Tan, supra note 41.

[44] Lacson, Sr. v. Delgado, 111 Phil. 952, 955 (1961).

[45] SEC. 16. Residents temporarily out of the Philippines. — When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding section.

[46] SEC. 15. Extraterritorial service. — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.

[47] Rollo, p. 158.

[48] AN ACT TO PROVIDE AN ADEQUATE PROCEDURE FOR THE RECONSTITUTION OF THE RECORDS OF PENDING JUDICIAL PROCEEDINGS AND BOOKS, DOCUMENTS, AND FILES OF THE OFFICE OF THE REGISTER OF DEEDS, DESTROYED BY FIRE OR OTHER PUBLIC CALAMITIES, AND FOR OTHER PURPOSES.

[49] SEC. 5. Inherent powers of courts. — Every court shall have power:

x x x x

(h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.

[50] Feria v. Court of Appeals, 382 Phil. 412, 425 (2000).

[51] Metropolitan Waterworks and Sewerage System v. Court of Appeals, 357 Phil. 966, 985-986 (1998).

[52] TSN, October 21, 1993, p. 14.

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[53] Exhibit "18", records, pp. 502-503.

[54] Rollo, p. 28.

[55] TSN, February 19, 1991, p. 5.

[56] Exhibit "16", records, p. 497.

[57] Id.

[58] Section 1 of Public Act No. 2103, otherwise known as the Notarial Law, provides:

Sec. 1. (a) The acknowledgment shall be before a notary public or an officer duly authorized by law of the country to take acknowledgments of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgment shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, acknowledged that the same is his free act and deed. The certificate shall be made under the official seal, if he is by law required to keep a seal, and if not, his certificate shall so state.

[59] Gamido v. New Bilibid Prisons Officials, 312 Phil. 100, 104-105 (1995).

[60] Art. 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by Articles 1403, No. 2, and 1405;

[61] Cenido v. Spouses Apacionado, 376 Phil. 801, 818 (1999).

[62] CIVIL CODE, Article 1358 in relation to Article 1357; Del Castillo v. Escarella, 26 Phil. 409, 414 (1913).

[63] Cenido v. Spouses Apacionado, supra note 61 at 820-821.

[64] Records, p. 88.

[65] Id.

[66] Id. at 87.

[67] Umpoc v. Mercado, G.R. No. 158166, January 21, 2005, 449 SCRA 220, 238.

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