

**ANDREA MAYOR AND VERGEL ROMULO, PETITIONERS, VS.
LOURDES MASANGKAY Y BELEN AND LEONARDO BELEN,
RESPONDENTS.**

G.R. No. 151035. June 03, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

The crux of the controversy in this petition for review is whether or not the execution of the Kasulatan ng Bilihang Tuluyan and Kasulatan ng Sanglaan covering a 179 square meter lot on which stands the house where respondents live is tainted with irregularity. Petitioners claim that said contracts are binding on respondents because the latter freely and voluntarily executed them. The respondents, however, contend that the execution of the documents was procured through fraud and undue influence. The trial court sustained respondents. The ruling of the lower court was affirmed on appeal with modifications by the appellate tribunal. Aggrieved, petitioners elevated their cause by way of this proceeding to this Court.

The undisputed facts as culled from the factual findings of the appellate court[1] are as follows:

Petitioner Andrea Mayor was the original owner of the a parcel of land located at Bonifacio Street, San Pablo City measuring about 179 square meters, more or less. On November 27, 1979, respondent Lourdes M. Belen purchased the subject property from Andrea Mayor in consideration of P18,000.00 payable in installments. Lourdes M. Belen was able to pay P11,445.00 out of the P18,000.00 purchase price leaving a balance of P6,555.00.

On June 17, 1980, Lourdes M. Belen sold back the subject property to Andrea Mayor in consideration of P18,000.00. For this purpose, Lourdes M. Belen executed the Kasulatan ng Bilihang Tuluyan in favor of Andrea Mayor.

On June 19, 1980, to secure a loan in the amount of P12,000.00 obtained from Lourdes M. Belen, Andrea Mayor executed a real estate mortgage over the subject property denominated as Kasulatan ng Sanglaan in favor of the former.

On August 4, 1980, Lourdes M. Belen filed a civil suit against Andrea Mayor, docketed as Civil Case No. SP-1755, for annulment of the Kasulatang Bilihang Tuluyan and Kasulatan ng Sanglaan.

In the complaint, Lourdes alleged, among others, that petitioner Andrea Mayor, through co-petitioner Vergel Romulo a.k.a. Virgilio Romulo, made her believe that the sale in her favor by Andrea is void because the deed of conveyance did not reflect the true agreement of the parties as to the mode of payment of the purchase price, i.e., the purchase price was made on installments and not in cash as stipulated in the document. Lourdes further averred that she was also made to believe that she might lose what she had already paid which amounted to 70% of the purchase price. She was convinced by the representations of Andrea and Romulo that it would be best for the latter to make it appear that Andrea was merely mortgaging the subject property to her. Lourdes readily agreed

to the scheme believing that it was for the protection of her rights. It turned out that the scheme was in fact a ruse employed by Romulo and Andrea to re-acquire the property, thus, Lourdes's consent in the execution of the Kasulatan ng Bilihang Tuluyan and Kasulatan ng Sanglaan was obtained through fraud and undue influence.

In her answer with counterclaim, Andrea Mayor denied the material allegations of the complaint insisting, in sum, that Lourdes M. Belen freely and voluntarily executed the subject contracts and the same is binding on the parties thereto.

On August 11, 1980, Leonardo Belen filed a complaint for Annulment of Deed of Absolute Sale and Real Estate Mortgage against Andrea Mayor and Lourdes Masangkay a.k.a Lourdes M. Belen. In the complaint, docketed as Civil Case No. SP-1756, he averred that he is living with Lourdes M. Belen without benefit of marriage. Lourdes bought the subject property from Andrea Mayor using their common fund. On account of the fraudulent acts of Andrea Mayor in connivance with Virgilio Romulo, Lourdes M. Belen agreed to execute the Kasulatan ng Bilihang Tuluyan and the Kasulatan ng Sanglaan. For lack of his approval or consent thereto, as co-owner of the property, the said documents are null and void.

Denying the allegations of the complaint, Andrea Mayor in her answer with counterclaim averred that Leonardo Belen did not have a cause of action because he was neither a party nor a privy to any of the subject contracts. Andrea also alleged that the execution thereof was Lourdes's free and voluntary act.

Subsequently on February 16, 1981, Leonardo Belen and Lourdes M. Belen filed a complaint for Damages against Virgilio Romulo. In the complaint, docketed as Civil Case No. SP-1821, Lourdes and Leonardo averred that they sustained damages for Virgilio's fraudulent acts of inducing Lourdes to sign the subject contracts.

In his answer, Virgilio Romulo insisted that he never had any transaction with Lourdes M. Belen and Leonardo Belen. For instituting a baseless action against him, Lourdes and Leonardo should be held liable for damages.

The three cases were consolidated and jointly tried. After trial, the court a quo rendered judgment in favor of the Belens, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered declaring the Kasulatan ng Bilihang Tuluyan dated June 17, 1980 and the Kasulatan ng Sanglaan dated June 19, 1980 null and void and ordering:

- the defendants to jointly and severally pay to the plaintiffs Leonardo Belen and Lourdes Masangkay Belen the sum of P15,000.00 for their attorney's fees and costs of litigation in these three cases.
- Virgilio Romulo to pay the plaintiffs the sum of P20,000.00 as moral damages.

Dissatisfied, petitioners elevated their cause to the Court of Appeals which rendered judgment[2] affirming the assailed decision but deleting the award of attorney's fees. A motion for reconsideration was subsequently denied.[3]

Hence, the instant petition filed by petitioners who argue:

THAT WITH DUE RESPECT TO THE FINDINGS MADE BY PUBLIC RESPONDENT HONORABLE COURT OF APPEALS, THE PRIVATE RESPONDENTS WERE NOT ABLE TO PROVE THE FRAUD AND UNDUE INFLUENCE THEY CLAIMED TO HAVE BEEN EXERTED ON THEM BY THE PETITIONER IN THE EXECUTION OF THE QUESTIONED KASULATAN NG BILIHAN AND KASULATAN NG SANGLAAN.

The issue for resolution is whether or not fraud attended the execution of the Kasulatan ng Bilihan and Kasulatan ng Sanglaan.

The Civil Code provides that –

ART. 1338. There is fraud when, through insidious words or machinations of one of the contracting parties, the other is induced to enter into a contract which, without them, he would not have agreed to.

As defined, fraud refers to all kinds of deception, whether through insidious machination, manipulation, concealment or misrepresentation to lead another party into error.[4] The deceit employed must be serious. It must be sufficient to impress or lead an ordinarily prudent person into error, taking into account the circumstances of each case.[5]

In support of their cause, petitioners intone the shopworn legal maxim that *fraus est odiosa et non praesumenda* – and argue that to establish the claim of fraud, evidence must be clear and more than merely preponderant. They contend, in sum, that the two deeds were duly executed by the parties thereto in accordance with the formalities required by law and as public documents the evidence to overcome their recitals is wanting.

We disagree.

Impressive as the arguments petitioners have advanced in support of their cause may be, the fatal flaw lies in their inability to convincingly substantiate their claim that Lourdes M. Belen signed the contracts freely and voluntarily.

This brings to the fore Lourdes M. Belen's limited educational attainment. While indeed petitioners point out that the deeds denominated as *Kasulatan ng Bilihang Tuluyan* and *Kasulatan ng Sanglaan* were executed in Tagalog, a close scrutiny thereof shows that they are practically literal translations of their English counterparts. Thus, the mere fact that the documents were executed in the vernacular neither clarified nor simplified matters for Lourdes who admitted on cross-examination that she merely finished Grade 3, could write a little, and understand a little of the Tagalog language.[6]

The appellate court could not then be faulted when it invoked Article 1332 of the Civil Code which states:

ART. 1332. When one of the parties is unable to read, or if the contract is in a language not understood by him, and mistake or fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former.

As aptly pointed out by the Court of Appeals, the principle that a party is presumed to know the import of a document to which he affixes his signature is modified by the foregoing article. Under the said article, where a party is unable to read or when the contract is in a language not understood by a party and mistake or fraud is alleged, the obligation to show that the terms of the contract had been fully explained to said party who is unable to read or understand the language of the contract devolves on the party seeking to enforce it. The burden rests upon the party who seeks to enforce the contract to show that the other party fully understood the contents of the document. If he fails to discharge this burden, the presumption of mistake, if not, fraud, stands un rebutted and controlling.[7]

In this case, petitioners alleged that Lourdes M. Belen affixed her signature on the questioned contracts freely and voluntarily. We have assiduously scoured the record but like the appellate court we have not come across convincing evidence to support their allegations. In civil cases, he who alleges a fact has the burden of proving it by a preponderance of evidence.[8] Suffice it to state that such self-serving claims are not enough to rebut the presumption of fraud provided for in Article 1332 of the Civil Code. As the party claiming affirmative relief from the court, it is incumbent upon petitioners to convincingly prove their claim. This they failed to do. Bare allegations, unsubstantiated by evidence are not equivalent to proof under our Rules.[9] In short, mere allegations are not evidence.[10]

Concededly, both the Kasulatan ng Bilihang Tuluyan and the Kasulatan ng Sanglaan are public documents and there is no dispute that generally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution. In addition, documents acknowledged before a notary public have in their favor the presumption of regularity. However, the presumption is not absolute and may be rebutted by clear and convincing evidence to the contrary.[11] The presumption cannot be made to apply in this case because the regularity in the execution of the documents were challenged in the proceedings below where their prima facie validity was overthrown by the highly questionable circumstances pointed out by both trial and appellate courts. Furthermore, notarization per se is not a guarantee of the validity of the contents of a document. Indeed, as stated by the Supreme Court in *Nazareno v. CA*: [12]

The fact that the deed of sale was notarized is not a guarantee of the validity of its contents. As held in *Suntay v. Court of Appeals*: [13]

Though the notarization of the deed of sale in question vests in its favor the presumption of regularity, it is not the intention nor the function of the notary public to validate and make binding an instrument never, in the first place, intended to have any binding legal effect upon the parties thereto. The intention of the parties still and always is the primary consideration in determining the true nature of the contract.

The impugned documents cannot be presumed as valid because of the direct challenge posed thereto by respondents, which is precisely the reason for the commencement of this case: to bring to the fore the irregularity in their execution.

There are, moreover, other factual circumstances pointed out by both the trial and appellate courts which militate against the contention of petitioners. The evidence on record shows that the respondents Belens intended to stay and occupy the subject land for a considerable length of time. As borne out by the records, respondents bought from Celita Bordoos the house standing on the subject land then owned by Andrea Mayor. [14] Four years later or on November 27, 1979, respondents bought the subject land from petitioner Andrea Mayor. [15]

They bought the said land through installments and already paid P11,445.00 of the P18,000.00 purchase price. They also caused the transfer in their names of the tax declarations over the subject land and house. This they did even before they could have completed the payment of the purchase price. In short, their intention and desire to stay on the property is very evident. Petitioners' suggestion, therefore, that respondents made a sudden volte face and decided to resell the property to them – seven months from the date of the property's acquisition, after payment of almost two-thirds of the purchase price and transferring the tax declarations thereof in respondents' names, borders on the absurd and the incredible. It simply is contrary to human experience for respondents to have had a hasty change of heart to dispose of the land on which they intend to make their home and upon which they had invested so much.

Petitioners advance the excuse that respondents wanted to immediately dispose of the subject property because the area would be soon converted into a park. If this were so, why would Lourdes Belen thereafter accept the very same property as security knowing fully well that it would revert to the public domain?

A mortgage subjects the property upon which it is imposed, whoever the possessor may be, to the fulfillment of the obligation whose security it was constituted. [16] Thus, in case of non-payment, the creditor may proceed against the property for the fulfillment of the obligation. No creditor would accept property as security for the fulfillment of the obligation knowing that the property offered as security would soon be out of the commerce of man. [17]

Finally, the non-presentation of petitioner Andrea Mayor on the witness stand is likewise not lost on us and adds to the weakness of petitioners' cause. While it is true that the non-presentation of a witness is not a reason for

discrediting a party's defense, still we are inclined to take this omission against them in view of the numerous loopholes in their defense.[18]

All told, we see no reason in overturning the findings of the appellate court. As has often been stated, "[t]he jurisdiction of this Court over cases brought to it from the Court of Appeals is limited to a review of questions of law since the factual conclusions thereon are conclusive. There are of course exceptions to this rule, but none obtain in the case at bar to warrant a scrutiny of the Court of Appeals' conclusions which are supported by the evidence on record and carry more weight, it having affirmed the trial court's factual conclusions." [19]

WHEREFORE, in view of all the foregoing, the petition is DENIED and the decision dated April 3, 2001 of the Court of Appeals in CA-G.R. CV No. 48646, is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Eugenio S. Labitoria with Associate Justices Eloy R. Bello and Perlita J. Tria-Tirona concurring.

[2] Rollo, pp. 47-57.

[3] Id., p. 60.

[4] Article 1338, Civil Code; Tolentino A., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. IV, 1991 Ed., p. 505.

[5] Maestrado v. CA, 384 Phil. 418 (2000), citing Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, supra, p. 514, citing Borrel y Soler, Nulidad, p. 250.

[6] TSN, 28 June 1982, p. 6.

[7] Ayola v. Valderrama Lumber Manufacturer Co., Inc., 49 O.G. 980, March 1953.

[8] Heirs of Atanacio Fabela v. CA, 414 Phil. 838 (2001), citing Javier v. CA, G.R. No. 101177, 28 March 1994, 231 SCRA 498; United Airlines, Inc. v. CA, G.R. No. 124110, 20 April 2001, 357 SCRA 99.

[9] Manzano v. Perez, Sr., 414 Phil. 728 (2001), citing PNB v. CA, 334 Phil. 120 (1997) and Martinez v. NLRC, 339 Phil. 176 (1997).

[10] Marubeni Corporation v. Lirag, 415 Phil. 29 (2001), Luxuria Homes, Inc. v. CA, 361 Phil. 108 (1999); see also Sadhwani v. CA, 346 Phil. 54 (1997); R.F. Navarro & Co., Inc. v. CA, 413 Phil. 432 (2001).

[11] Basilio v. CA, G.R. No. 125935, 29 November 2000, 346 SCRA 321, 324, citing Lao v. Villones-Lao, 366 Phil. 49 (1999); Embrado v. CA, G.R. No. 51457, 27 June 1994, 233 SCRA 335; Salame v. CA, G.R. No. 104373, 22 December 1994, 239 SCRA 356; Gerales v. CA, G.R. No. 85909, 9 February 1993, 218 SCRA 638.

[12] G.R. No. 138842, 18 October 2000, 343 SCRA 637, 652.

[13] 321 Phil. 809 (1995).

[14] Records, p. 11.

[15] Id., p. 9.

[16] Article 2126, Civil Code.

[17] Article 1327, Civil Code.

[18] See *Chua v. People*, G.R. No. 128075, 19 January 2001, 349 SCRA 662.

[19] *Ninoy Aquino International Airport Authority v. CA*, G.R. No. 116652, 10 March 2003, 398 SCRA 703, citing *Borromeo v. Sun*, G.R. No. 75908, 22 October 1999, 317 SCRA 176.

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