CHINA BANKING CORPORATION, INC., PETITIONER, VS. COURT OF APPEALS, HEIRS OF AVELINA VDA. DE PIÑERO AND EMMANUEL PIÑERO, RESPONDENTS.

G.R. NO. 155299. July 24, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court questioning the Decision[1] dated December 13, 2000, promulgated by the Court of Appeals (CA) in CA-G.R. CV No. 57249, which reversed and set aside the Decision of the Regional Trial Court (RTC), Branch 68, Pasig City, in Civil Case SCA No. 171; and the CA Resolution[2] dated September 16, 2002 which denied the petitioner's Motion for Reconsideration.

This case originated from an action for Annulment of Real Estate Mortgage, Foreclosure of Mortgage, Notice of Auction Sale and Damages with Prayer for Issuance of a Temporary Restraining Order and/or Preliminary Injunction filed by respondents against herein petitioner China Banking Corporation, Inc., Notary Public Ernesto Bonifacio, Alfonso Kipte, Marivic Kipte and the Register of Deeds of Rizal, with the RTC.

The deceased Avelina Vda. de Piñero (Avelina), herein respondents' predecessor-in-interest, was the registered owner of two adjoining parcels of land with improvements, consisting of 510 sq m situated in Mandaluyong City, covered by Transfer Certificates of Title Nos. 64018 and 59833. On August 27, 1991, Alfonso Kipte obtained a P1,200,000.00 loan from petitioner, secured by a promissory note and a real estate mortgage signed by Avelina over her properties. The mortgage was annotated on the titles. The loan was also secured by a surety agreement signed by Kipte as principal and by Avelina as surety. Due to Kipte's failure to pay his indebtedness, the mortgaged properties were foreclosed and auction sale was scheduled on August 17, 1992.

Thus, Avelina and respondent Emmanuel Piñero filed the complaint with the RTC, with Avelina denying having signed the documents. They alleged that: sometime in September 1992, Avelina was surprised to receive a foreclosure notice from the notary public, stating that her properties would be sold at public auction by virtue of a petition for extrajudicial foreclosure filed by petitioner; after inquiring from petitioner, she learned that she allegedly executed a real estate mortgage and a surety agreement to secure a loan of one Alfredo Kipte, whom she does not know; the foreclosure is void since she never voluntarily executed the mortgage or surety agreement, never appeared before the notary public, never received any proceeds from the loan, and was never a business associate of Kipte; sometime in 1990, Emmanuel's common-law wife, Ludivina Rinnoces, asked Avelina to sign some documents allegedly pertaining to a loan from one Cerila de Leon; Avelina signed these documents without reading the same, as she is blind, and without knowing the contents thereof; in 1991, Ludivina again asked her to sign some documents, allegedly to pay the account to Cerila; again, Avelina was not able to read or know the contents of these documents; the alleged mortgage was annotated on TCT No. 64018, but not on TCT No. 59833; and TCT No. 64018 also contained a cancellation of a mortgage in favor of Jose Macaraig and Cerila de Leon,

both of whom she does not know.[3]

Petitioner, however, contends among others, that upon the execution of the documents, Avelina was furnished with copies thereof; that Avelina freely and voluntarily signed the documents; that at the time of the execution of the documents, though physically weak, she was mentally sound and in complete possession of her faculties, and she understood the nature of the transactions; and Avelina personally appeared before the notary public.[4]

On September 6, 1996, Avelina died and was substituted by her heirs.

After trial, the RTC rendered its Decision dated October 21, 1997, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of CHINA BANKING CORPORATION and ERNESTO BONIFACIO and orders the DISMISSAL of this action.
>
> The Writ of Preliminary Injunction is hereby permanently LIFTED.
>
> The compulsory Counter-claim of defendant is likewise DISMISSED.
>
> No pronouncement as to costs.
>
> SO ORDERED.[5]

Respondents then appealed to the CA, which, in a Decision dated December 13, 2000, reversed the RTC Decision. The dispositive portion of the CA Decision reads:

> WHEREFORE, in view of the foregoing, the appealed decision is REVERSED and SET ASIDE and judgment is hereby rendered in favor of appellants. Appellee bank is further ordered to reconvey the property to appellant heirs of appellant Avelina Vda. de Piñero.
>
> SO ORDERED.[6]

The CA held that the deceased Avelina was an old widow, 80 years of age and blind even before she purportedly signed the Real Estate Mortgage and Surety Agreement on August 26, 1991 and August 29, 1991, respectively; that Rebecca Piñero-Galang, daughter of Avelina, testified that in 1985, her mother became totally blind, was not physically fit, and suffered an eye disease or glaucoma; that Avelina herself testified that she was only persuaded to sign the questioned documents as witness; that Ludivina guided her when she signed the foregoing documents; that Avelina did not receive from Kipte, the principal borrower, any amount as consideration of the mortgage attests to her credible theory that she was only a witness to the execution of the documents; that her deportment in court and the fact that she had to be guided to take the witness stand constituted the "strongest proof of blindness"; that the notary public, Atty. Restituto Fano, who claimed to have notarized the Surety Agreement, said that he remembered Avelina to be an old lady, with white complexion and white hair, and who had to be assisted and accompanied to his table to be able to sign the questioned agreements; that Atty. Fano noticed that "she could hardly see"; and that it was unusual for Avelina, a woman of old age, to be so willing to act as surety to a promissory note of petitioner Kipte, a complete stranger, which involved the large amount of P1,200,000.00.

Its Motion for Reconsideration having been denied in a Resolution dated September 16, 2002, petitioner now comes before the Court raising the sole issue of -

> WHETHER THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN REVERSING THE FINDING OF THE TRIAL COURT THAT APPELLANT AVELINA VDA. DE PINERO (DECEASED) WAS BLIND, AND IN CONCLUDING THAT SHE DID NOT VOLUNTARILY AND KNOWINGLY EXECUTE THE REAL ESTATE MORTGAGE DATED AUGUST 26, 1991 AND SURETY AGREEMENT DATED AUGUST 29, 1991.[7]

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The main issue in this case is one of fact, i.e., whether or not the deceased Avelina signed the real estate mortgage and surety agreement knowingly and voluntarily, with full knowledge of its contents.

As a general rule, in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case. But jurisprudence has recognized several exceptions in which factual issues may be resolved by this Court,[8] at least two of which are present in the instant case, namely: (1) when the judgment is based on a misapprehension of facts; and (2) when the findings of facts of the lower courts are conflicting.

Petitioner argues, in the main, that respondents admitted that Avelina indeed signed the mortgage and surety agreements in question; that, as notarial documents, they are clothed with the prima facie presumption of regularity and due execution; that Avelina, being of sound and disposing mind despite old age, was duly informed of the nature and purpose of these agreements by petitioner's branch manager and the notary public before she affixed her signature; and that the respondents could have easily submitted a medical certificate attesting to the supposed blindness of Avelina or made an ophthalmologist take the witness stand, but they did neither.

At the outset, it must be made clear that counsel for respondents stipulated to admit merely the authenticity of Avelina's signature, which was done during trial.[9] The admission of this fact does not by itself prove petitioner's case, since at bottom, the issue is not whether Avelina affixed her signature on the agreements in question, but, ultimately, whether she gave her consent to be bound as surety.

While it is true that both the mortgage and surety agreement are public documents, notarization per se is not a guarantee of the validity of the contents of a document.[10] Generally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution and has in its favor the presumption of regularity. However, such presumption is not absolute. It may be rebutted by clear and convincing evidence to the contrary.[11]

The rule of evidence requiring the opinion of expert witnesses applies only to such matters clearly within the domain of medical science, and not to matters that are within the common knowledge of mankind which may be testified to by anyone familiar with the facts.[12] Thus, to prove whether one is blind, it is not necessary to submit a medical certificate attesting to the blindness or to require an expert witness, such as an ophthalmologist, to testify to such fact, since the fact of blindness can be determined through common knowledge and by anyone with sufficient familiarity of such fact. In this case, Avelina, then alive during the trial of the case, categorically testified and attested to her own blindness, a fact which even the trial court noted, viz:

> q-
>
> You stated in paragraph 8 and 9 of the same transcript dated Sept. 25, 1992 that you remembered that you were requested by your daughter-in-law to sign a document as a witness and in fact on page 9 thereof you also stated that you were guided by your daughter-in-law in doing so, is that correct?
>
> a-
>
> Yes, sir.
>
> q-
>
> So, when you signed it as a witness, you were guided by your daughter-in-law?
>
> a-
>
> I don [sic] not know who guided me because I could not see.

q-

But you said, during the hearing for your application for writ of injunction that it was your daughter-in-law, namely, Ludivina Piñero who guided you?

a-

I can not remember, sir.

q-

You are an educated person Mrs. Witness, is it not true that it is basic for a person before signing a document to read it first?

ATTY. DE GUZMAN:

Objection.

ATTY. CASIDING:

I am asking the witness if she knows?

COURT:

Yes, but precisely the witness is blind.

ATTY. CASIDING:

I will reform my question.
(to witness, continuing)

q-

You are an educated person Mrs. Witness, is it very basic for you to read first know the contents of the document before signing it?

a-

That is true, but I could not read, sir.

q-

Did you not ask Ludivina Pinero to first read the contents of the documents before you sign it?

a-

I did not say it to Ludivina Pinero but she said to me that I would merely act as a witness only, sir.

q-

When you were made to sign some documents in 1991 pertaining to the payment for the loan of Cerila de Leon, did you not also request to asked [sic] Ludivina Piñero to tell you what is the contents of the same document all about?

a-

No, I did not ask her, sir.

q-

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> But do you believe Mrs. Witness that before you signed the documents, it is but natural for you to be involved in the contents of the same document?
>
> ATTY. DE GUZMAN:
>
> Objection x x x.
>
> COURT:
>
> You may answer.
>
> WITNESS:
>
> Yes, sir.
>
> ATTY. CASIDING:
>
> (to witness, continuing)
>
> q-
>
> If it is natural, then why did you not ask Ludivina to read or explain to you the contents of the documents before signing it?
>
> a-
>
> Because she only told me that I would merely act as a witness, sir. [13] (Emphasis supplied)

Also established are the facts that Avelina was already blind when she was manipulated into signing the questioned documents by her daughter-in-law, Ludivina, who did not explain to her the contents and true nature of the documents beforehand; that her hand had to be guided by Ludivina during the act of signing; that Avelina did not know that the Surety Agreement and Real Estate Mortgage she signed were to secure the loan Kipte contracted from the petitioner; that she was made to understand that she was to sign only as witness; and that Kipte was a total stranger to her, and, by this reason, it is implausible that she agreed to be his surety.[14] In fact, it was only after Avelina received the notices of foreclosure that she learned that there was a mortgage document among the papers she signed.

Avelina's blindness was further confirmed by the testimonies of her children, respondents Emmanuel M. Piñero[15] and Rebecca Piñero-Galang.[16] Even the notary before whom she supposedly appeared testified to the fact that she was indeed blind and that she was not made to understand the documents.[17]

Based on the foregoing, it is therefore clear that Avelina was in fact blind, that she did not know the contents of the documents she signed, and more importantly, that she did not know the capacity in which she was signing these documents.

The evidence presented by respondents are clear and convincing, sufficient to overturn the presumption of regularity of the subject documents.

WHEREFORE, the instant petition is DENIED. The assailed Decision and Resolution of the Court of Appeals are AFFIRMED.

No pronouncement as to costs.

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SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Mariano M. Umali (retired), with Associate Justices Ruben T. Reyes and Rebecca de Guia-Salvador, concurring; rollo, pp. 43-50.

[2] Penned by Associate Justice Ruben T. Reyes, with Associate Justices Mercedes Gozo-Dadole (retired) and Rebecca de Guia-Salvador, concurring; id. at 52.

[3] Records, pp. 5-8.

[4] Id. at 90-91.

[5] CA rollo, p. 88.

[6] Rollo, p. 49.

[7] Id. at 17.

[8] Heirs of Dicman v. Cariño, G.R. No. 146459, June 8, 2006, 490 SCRA 240, 261.

[9] TSN, July 4, 1994, p. 3.

[10] Mayor v. Belen, G.R. No. 151035, June 3, 2004, 430 SCRA 561, 567.

[11] Id.

[12] See Reyes v. Sisters of Mercy Hospital, 396 Phil. 87, 96 (2000); Ramos v. Court of Appeals, 378 Phil. 1198, 1221 (1999).

[13] TSN, July 12, 1993, pp. 18-20.

[14] TSN, September 25, 1992, pp. 8-10.

[15] TSN, July 19, 1993, p. 8.

[16] TSN, February 17, 1997, p. 12-13.

[17] TSN, July 4, 1994, pp. 10-12.

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