

LEONORA CEBALLOS, PETITIONER, VS. INTESTATE ESTATE OF THE LATE EMIGDIO MERCADO AND THE HEIRS OF EMIGDIO MERCADO, RESPONDENTS.

G.R. No. 155856. May 28, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Well-settled is the rule that expert opinion is never conclusive. Courts may exercise discretion in accepting or overruling the opinions of handwriting experts. Clear and convincing evidence is required to overturn the presumption of validity of a notarized deed of absolute sale. Absent such species of evidence, the presumption stands.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the June 20, 2002 Decision[2] and the October 11, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 53463. The dispositive part of the assailed Decision reads as follows:

“WHEREFORE, premises considered, the present appeal is hereby DISMISSED and the decision appealed from in Civil Case No. CEB-12690 is hereby AFFIRMED with MODIFICATION in that the award of moral damages is hereby REDUCED to P50,000.00.

“With double costs against the plaintiff-appellant.”[4]

The assailed Resolution denied petitioner’s Motion for Reconsideration.

The Facts

The facts of the case are summarized by the CA in this wise:

“[Petitioner] Leonora Emparado Ceballos is the registered owner of a certain parcel of land (Lot No. 3353, Pls-657-D) situated in Bato, Badian, Cebu, consisting of 53,301 square meters and covered by Transfer Certificate of Title No. T-948 of the Register of Deeds for the Province of Cebu. Sometime in October 1980, [petitioner] was introduced to Emigdio Mercado for the purpose of obtaining a loan as the latter was also known to be in the business of lending money. [Petitioner] was able to borrow the amount of P12,000.00 payable in two (2) months and to secure said loan, she executed in favor of Emigdio Mercado a ‘Deed of Real Estate Mortgage’ over the subject property. The said mortgage deed was not registered by the mortgagee. [Petitioner] was not able to pay her mortgage indebtedness to Emigdio Mercado within the stipulated period. On February 13, 1982, a ‘Deed of Absolute Sale’ was executed whereby the mortgaged property was sold to Emigdio Mercado for the price of P16,500.00. Said instrument contained the signatures of [petitioner] and her husband Narciso Ceballos and notarized by Atty. Elias V. Ortiz. It appears that sometime in 1990, [petitioner] offered to buy back the property from Emigdio Mercado for the price of P30,000.00 but the latter’s wife refused since the same was already transferred in their names under TCT No. TF-3252 issued on June 1, 1987. Emigdio Mercado died on January 12, 1991 and a petition for the issuance of letters of administration over his intestate estate was filed by her daughter Thelma M. Aranas before the RTC-Cebu City, Branch 11 (Spec.

Proc. No. 3094-CEB).

“On August 18, 1990, [petitioner] instituted the present suit against the Intestate Estate of the Late Emigdio Mercado, Teresita Mercado as the Administrator, and/or the Heirs of the Late Emigdio Mercado. The Complaint alleged the following:

“[Petitioner] is the owner as her paraphernal property of a parcel of land located at Barangay Bato, Municipality of Badian, Province of Cebu and covered by TCT No. T-948, the same being her hereditary share from the property of her late father Rufo Emparado. Sometime in the early part of December 1980, to accommodate a friend who was hospitalized, [petitioner] went to the late Emigdio Mercado, who was known, besides his other businesses, to be also in the business of lending money, although at exorbitant rate of interest. A Real Estate Mortgage was drawn on December 31, 1980 for P12,000.00 although only P8,000.00 was actually delivered, the difference represents the interest for the use of money, for a period of two (2) months. Since the accommodated party could not yet produce the redemption money, [petitioner] periodically went to the mortgagee to beg him not to foreclose the mortgage. On February 13, 1982, [petitioner] was made to execute a ‘Deed of Sale with Pacto de Retro’ for an increased consideration, from P12,000.00 to P16,500.00 for a period of one (1) year from date of execution thereof, which contract was in fact an equitable mortgage. [Petitioner] religiously paid interest on the loan even beyond the term of the mortgage, on the repeated request by [petitioner] to the deceased mortgagee not to foreclose the mortgage. [Petitioner] learned to engage in the buy and sell of just any commodity, more especially real estate, and her income improved. In November 1990, she went to the deceased mortgagee to redeem the property to which the latter agreed but the wife, Teresita Virtucio-Mercado vehemently objected saying that it could no longer be done because the title had been transferred in their names. [Petitioner] waited for a propitious time to again propose to redeem the property since it was a matter of convincing by the deceased mortgagee for his wife to agree to the redemption, when she learned of his death on January 12, 1991. [Petitioner] then started her epic to recover the property; she engaged in gathering documentation when to her great worry and apprehension she discovered that the title to the property had indeed been transferred in the name of the deceased Emigdio S. Mercado under TCT No. TF-3252. Such transfer of title was based on a document, ‘Deed of Absolute Sale,’ purportedly executed by [petitioner] and her husband on February 13, 1982, the same date when deceased Emigdio Mercado and [petitioner] executed the ‘Deed of Sale With Pacto de Retro’ and for the same consideration of P16,500.00, the latter document turned out not to have been submitted by the deceased for notarization. Said ‘Deed of Absolute Sale’ is an absolute fabrication with the signatures therein appearing to have been of the [petitioner’s] and husband’s, were absolute forgeries. [Petitioner] submitted said deed of sale to disinterested third parties to confirm its being spurious; she sought the assistance of the Philippine National Police (PNP) which found (PNP Report No. 097-91) that said document of sale is a forgery; and hence, it is patent that the transfer of title on the property was done through fraud. [Petitioner] is willing and ready to redeem the property and there is no other way for her to recover her property but through the courts. [Petitioner] thus prayed for a judgment (1) declaring the ‘Deed of Absolute Sale’ void from the beginning; (2) to allow [petitioner] to redeem her property; (3) ordering defendant, after redemption, to reconvey the property to [petitioner]; (4) ordering defendant to reimburse [petitioner] attorney’s fees of P50,000.00 and litigation expenses of P10,000.00, and to pay moral damages in the sum of P100,000.00.

“In their Answer with Counterclaim, [respondents] Heirs of the Late Emigdio Mercado asserted that what was written on the deed of real estate mortgage was the truth and that the deed of sale with pacto de retro was not pushed through because [petitioner] decided to sell the property to the late Emigdio Mercado absolutely for the price of P16,500.00. [Petitioner] already knew that she had sold the property to Mr. Mercado and she was even the one who delivered to him the ‘Deed of Absolute Sale’ already signed by her and her husband, and already notarized by the notary public; and since that time [respondents] have been in possession of said property and were the ones paying the realty taxes thereon. The signatures appearing on the deed of sale are genuine, and the property can no longer be redeemed as it had already been sold in an absolute manner to Mr. Mercado. [Respondents] thus prayed that the complaint be dismissed and on the counterclaim, that [petitioner] be

ordered to pay [respondents] the amounts of P30,000.00 as attorney's fees, P20,000.00 as litigation expenses, P1,000,000.00 as moral damages and P200,000.00 as exemplary damages.

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"To prove her allegations in the complaint, [petitioner] presented documentary evidence and her own testimony and those of her witnesses Romeo Varona (document examiner of the PNP Crime Laboratory, Camp Sotero Cabahug) and Jovencio Virtucio. [Respondents], on the other hand, presented the testimonies of Atty. Elias Ortiz (who notarized the 'Deed of Absolute Sale'), Teresita Virtucio Mercado and SPO2 Wilfredo Espina (member of the PNP assigned at the Crimes Record Section). In rebuttal, [petitioner] returned to the witness stand and also presented the testimony of Pio Delicano (alleged overseer of the subject land since 1990). [Respondents'] sur-rebuttal evidence consisted of a copy of tax declaration in the names of [petitioner] and Francisca Emparado and copy of the complaint in Civil Case No. CEB-13680 pending before RTC-Cebu City, Branch 22 between [petitioner] and her own brothers and sisters over the same property subject of the present litigation. On October 19, 1995, the trial court rendered judgment in favor of the [respondents] and against the [petitioner] as earlier cited." [5]

Ruling of the Court of Appeals

The Court of Appeals held that petitioner had "failed to prove by the requisite evidence her allegation of forgery in the subject 'Deed of Absolute Sale.'" It further ruled thus:

"[T]he trial court had observed the correct process of identification first, by not completely relying on the findings or statements by the handwriting expert presented by appellant as to the existence of forgery in the questioned document, and more important, in considering both similarities and dissimilarities between the questioned signatures and the standard signatures as to extract by such comparison between the two (2) sets of signatures the habitual and characteristic resemblance which naturally appears in the genuine writing. x x x The apparent dissimilarities are overshadowed by the striking similarities and therefore, fail to overcome the presumption of validity in favor of the duly notarized 'Deed of Absolute Sale.'" [6]

Moreover, the CA found no reason to consider as an equitable mortgage the transaction between petitioner and the deceased Emigdio Mercado, since none of the circumstances enumerated in Article 1602 of the Civil Code was present.

The CA also affirmed a reduced award of moral damages because of bad faith on the part of petitioner when she imputed to the deceased acts of forgery and fraud. This imputation tended to blacken his memory, and caused his surviving heirs emotional and psychological suffering.

Hence, this Petition. [7]

The Issues

Petitioner raises the following issues for our consideration:

"I. The findings of the appellate court as regards the questioned signature cannot be upheld as it is in disregard of fundamental precepts on handwriting analysis. Moreover, the said findings failed to take into account circumstances admitted by respondents and which ineluctably show a transaction of mortgage, not of sale.

II. Even granting that the subject deed is valid, it is incumbent upon the lower courts to declare the contract as one of equitable mortgage, not of sale.

III. The award of moral damages, attorney's fees and costs of suit finds no support in fact, in law, and in prevailing jurisprudence." [8]

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III.

The award of moral damages, attorney’s fees and costs of suit finds no support in fact, in law, and in prevailing jurisprudence.”[8]

The Court’s Ruling

The Petition is partly meritorious.

First Issue:

Handwriting Analysis

Petitioner assails the CA’s findings of fact. She insists that the signatures on the subject Deed of Absolute Sale were forged.

Her contention has no merit. Well-entrenched is the rule that the Supreme Court’s role in a petition under Rule 45 is limited to reviewing or reversing errors of law allegedly committed by the appellate court. Factual findings of the trial court, especially when affirmed by the Court of Appeals, are conclusive on the parties. Since such findings are generally not reviewable by this Court,[9] it is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below.[10]

In the present case, we find no reason to deviate from this rule. The courts a quo had sufficient factual basis in holding that the questioned signatures were not forgeries. Although there were dissimilarities between the questioned and the standard signatures, the CA also found between them “striking similarities as to indicate the habitual and characteristic writing of the appellant. The apparent dissimilarities are overshadowed by the striking similarities and, therefore, fail to overcome the presumption of validity in favor of the duly notarized ‘Deed of Absolute Sale.’”

Petitioner fails to convince us that the CA committed reversible error in affirming the trial court and in giving no weight to expert opinion. Justice Francisco, a recognized authority in Remedial Law, explains:

“Expert opinions are not ordinarily conclusive in the sense that they must be accepted as true on the subject of their testimony, but are generally regarded as purely advisory in character; the courts may place whatever weight they choose upon such testimony and may reject it, if they find it is inconsistent with the facts in the case or otherwise unreasonable.”[11]

Such opinion was not arbitrarily disregarded by the courts below. The RTC, as affirmed by the CA, overruled the conclusion of the expert witness, because he only relied on the dissimilarities in the signatures, but ignored their striking similarities or characteristics. The trial court meticulously explained:

“The aforementioned similarities between the questioned signatures and the standard signatures, are more prominent or pronounced in comparison with the standard signatures appearing in the said deed of real estate

mortgage which was omitted by Mr. Varona in the list of documents submitted by [petitioner] to him which contained her standard signatures. It has been written by an authority in handwriting that, to wit:

‘The principles underlying handwriting identification are based on the comparison of certain distinctive characteristics imprinted in the individual writing. These characteristics are injected into the writing involuntarily as a habit which are unconscious and inconspicuous to the eye of the writer and cannot be completely suppressed or concealed whether they appear in signature or general writing and constitute the identifying evidence that forms the basis of expert opinion. (Baker, Law of Disputed and Forged Documents, p. 22.)

‘The test of the comparison for identification actually is the accurate judging of the individual’s writing habit which means the comparative weighing of the characteristics, and, like any other evidence, the deduction must be determined by the number and value of the peculiarities. (Baker, *ibid.*, p. 24.)

“The specimens of the standard signatures of [petitioner] found in Exhibit ‘N’ were written and given by her in 1991 per investigation report submitted by Mr. Romeo Varona when the questioned document was dated February 13, 1982, or after a lapse of almost nine (9) years. A closer look over said specimens of [petitioner’s] standard signatures disclose

x x x much different strokes, a rather smooth, accomplished, disguised and much improved handwriting, possibly due to the fact that [petitioner] in the latter years became proficient in her handwriting compared to her signatures several years back as shown in her standard signatures found in the deed of real estate mortgage where marked similarities in the questioned signatures and the standard signatures are present in both.

“Yet despite the lapse of time, the instinctive habit of [petitioner’s] own handwriting characteristics set forth in her standard signatures find their similar impressions in her questioned signatures as distinctly observed by this Court.

“It is for this reason that this Court holds as it hereby holds that the finding of the handwriting expert, Mr. Romeo Varona, that the signature of [petitioner] as appearing in the questioned document is forged and cannot be binding or conclusive to this Court in view of the aforementioned observation of this Court as to the existence of similar imprinted characteristic habit of the writer seen both present in the questioned signatures and the standard signatures. x x x”

The RTC made an impressively thorough study and arrived at a well-reasoned resolution of the issue of forgery. We have no reason to overrule the CA’s affirmation of that resolution.

As a public document, the subject Deed of Absolute Sale has in its favor the presumption of regularity. To contradict it, one must present evidence that is clear and convincing; otherwise, the document should be upheld.[12]

Second Issue:

Equitable Mortgage

Petitioner also contends that the Contract should be declared as an equitable mortgage, because (1) the original transaction was a loan; and, (2) for a titled property with an area of more than fifty-three thousand square meters in a tourist area, the contract price of P16,500 was ridiculously low.

The instances when a contract -- regardless of its nomenclature -- may be presumed to be an equitable mortgage are enumerated in the Civil Code as follows:

“Art. 1602. The contract shall be presumed to be an equitable mortgage, in any of the following cases:

(1) When the price of a sale with right to repurchase is unusually inadequate:

- (2) When the vendor remains in possession as lessee or otherwise;
- (3) When upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed;
- (4) When the purchaser retains for himself a part of the purchase price;
- (5) When the vendor binds himself to pay the taxes on the thing sold;
- (6) In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation.

“In any of the foregoing cases, any money, fruits, or other benefit to be received by the vendee as rent or otherwise shall be considered as interest which shall be subject to the usury laws.”

“Art. 1604. The provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale.”

In this case, both the trial and the appellate courts found none of the above-enumerated circumstances. We find no cogent reason to reverse their factual finding.

Concededly, the original transaction was a loan. Petitioner failed to pay the loan; consequently, the parties entered into another agreement -- the assailed, duly notarized Deed of Absolute Sale, which superseded the loan document. Petitioner had the burden of proving that she did not intend to sell the property; that Emigdio Mercado did not intend to buy it; and that the new agreement did not embody the true intention of the parties.[13] We find no basis for disturbing the CA’s finding that she had failed to discharge this burden.

Harping on the alleged unconscionably low selling price of the subject land, petitioner points out that it is located in a tourist area and golf haven in Cebu. Notably, she has failed to prove that on February 13, 1982, the date of the sale, the area was already the tourist spot and golf haven that she describes it to be. In 1990, the property might have been worth ten million pesos,[14] as she claimed; however, at the time of the sale, the area was still undeveloped.[15] Hence, her contention that the selling price was unconscionably low lacks sufficient substantiation.

Petitioner also argues that Mercado’s delay in registering the Deed of Absolute Sale and transferring the land title shows that the real agreement was an equitable mortgage.

An equitable mortgage is one that -- although lacking in some formality, form or words, or other requisites demanded by a statute --nevertheless reveals the intention of the parties to charge a real property as security for a debt and contains nothing impossible or contrary to law.[16] Delay in transferring title is not one of the instances enumerated by law --instances in which an equitable mortgage can be presumed. Moreover, throughout the testimony of petitioner before the trial court, she never claimed that after the Deed of Absolute Sale had been executed in February 13, 1982, the land continued to be intended merely to secure payment of the P12,000 loan taken on December 31, 1980.[17]

This Court has held that a document acknowledged before a notary public enjoys the presumption of regularity. It is a prima facie evidence of the facts therein stated. To overcome this presumption, there must be presented evidence which is clear and convincing. Absent such evidence, the presumption must be upheld.[18]

In this case, petitioner failed to present clear and convincing evidence to overcome the presumption of validity of the notarized Deed conveying the land to private respondents. Her testimony denying the validity of the sale, having been “made by a party who has an interest in the outcome of the case, is not as reliable as written or documentary evidence. Moreover, self-serving statements are inadequate to establish one’s claims. Proof must be

presented to support the same.”[19]

Third Issue:

Moral Damages

We now discuss the propriety of the award of moral damages. A resort to judicial processes is not, per se, evidence of ill will upon which a claim for damages may be based.[20]

In *China Banking Corporation v. Court of Appeals*,[21] we held:

“x x x Malicious prosecution, both in criminal and civil cases, requires the presence of two elements, to wit: a) malice; and b) absence of probable cause. Moreover, there must be proof that the prosecution was prompted by a sinister design to vex and humiliate a person, and that it was initiated deliberately knowing that the charge was false and baseless (*Manila Gas Corporation v. Court of Appeals*, 100 SCRA 602 [1980]). Hence, mere filing of a suit does not render a person liable for malicious prosecution should he be unsuccessful, for the law could not have meant to impose a penalty on the right to litigate (*Ponce v. Legaspi*, 208 SCRA 377 [1992]; *Saba v. Court of Appeals*, 189 SCRA 50 [1990]; *Rubio v. Court of Appeals*, 141 SCRA 488 [1986]). Settled in our jurisprudence is the rule that moral damages cannot be recovered from a person who has filed a complaint against another in good faith, or without malice or bad faith (*Philippine National Bank v. Court of Appeals*, 159 SCRA 433 [1988]; *R & B Surety and Insurance v. Intermediate Appellate Court*, 129 SCRA 736 [1984]). If damage results from the filing of the complaint, it is *damnum absque injuria* (*Ilocos Norte Electrical Company v. Court of Appeals*, 179 SCRA 5 [1989]).”[22]

Respondents have failed to show that petitioner was motivated by bad faith or malice when she instituted the action for declaration of nullity of the Deed of Absolute Sale. Moreover, although she claims that her signature on the Deed was a forgery, contrary to the findings of the court a quo, she does not impute authorship of the alleged forgery to the deceased Emigdio Mercado. Hence, the courts a quo erred in awarding moral damages.

For the same reasons, the award for attorney’s fees and expenses of litigation cannot be sustained.

WHEREFORE, the Petition is PARTLY GRANTED. The assailed Decision is AFFIRMED, with the MODIFICATION that the awards for moral damages, attorney’s fees and expenses of litigation are deleted. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

Davide, Jr., C.J., (Chairman), on official leave.

[1] Rollo, pp. 4-21.

[2] *Id.*, pp. 83-92. Penned by Justice Martin S. Villarama Jr. (acting chairman of the Special Seventh Division) and concurred in by Justices Rebecca de Guia-Salvador and Mariano C. del Castillo (members).

[3] *Id.*, p. 101.

[4] Assailed Decision, p. 10; rollo, p. 92.

[5] *Id.*, pp. 2-4 & 84-86. Citations omitted.

[6] *Id.*, pp. 9 & 91.

[7] This case was deemed submitted for decision on May 30, 2003, upon the Court’s receipt of petitioner’s Reply

to Supplemental Memorandum, signed by Atty. Joan J. Sarausos. Respondents' Memorandum and Supplemental Memorandum, both signed by Atty. Francis M. Zosa, were received by this Court on May 20, 2003 and May 22, 2003, respectively.

[8] Petitioner's Memorandum, p. 5; rollo, p. 140. Original in upper case.

[9] *Goldenrod, Incorporated v. Court of Appeals*, 418 Phil. 492, September 28, 2001; *International Corporate Bank v. Gueco*, 351 SCRA 516, February 12, 2001.

[10] *Goldenrod, Incorporated v. Court of Appeals*, supra; *Romago Electric Co., Inc. v. Court of Appeals*, 388 Phil. 964, June 8, 2000; *Borromeo v. Sun*, 375 Phil. 595, October 22, 1999.

[11] *Francisco, Evidence* (1994 ed.), p. 357.

[12] *Ladignon v. Court of Appeals*, 390 Phil. 1161, July 18, 2000.

[13] In civil cases, the burden of proof is on the party who would be defeated if no evidence is given on either side; therefore, plaintiff must establish his case by a preponderance of evidence. *Pacific Banking Corporation Employees Organization v. Court of Appeals*, 351 Phil. 438, March 27, 1998.

[14] TSN, June 6, 1994, p. 18.

[15] TSN, October 18, 1994, p. 10; TSN, October 18, 1994, pp. 31 & 38.

[16] 41 C.J. 303.

[17] This was the date on which a Real Estate Mortgage was drawn to secure a loan of P12,000. Records, pp. 153-154.

[18] *Llana v. Court of Appeals*, 413 Phil. 329, 336, July 11, 2001, per Kapunan, J.; citing *Spouses Caoili v. Court of Appeals*, 373 Phil. 122, 139, September 14, 1999; and §23, Rule 132 of the Revised Rules of Court.

[19] *Llana v. Court of Appeals*, supra, pp. 336-337; citing *Ortañez v. Court of Appeals*, 266 SCRA 561, 567, January 23, 1997; *Chico v. Court of Appeals*, 348 Phil. 37, 43, January 5, 1998.

[20] *Pro Line Sports Center, Inc. v. Court of Appeals*, 346 Phil. 143, October 23, 1997.

[21] 231 SCRA 472, March 28, 1994.

[22] *Id.*, p. 478, per Quason, J.; also cited in *Mijares v. Court of Appeals*, 338 Phil. 274, 289-290, April 18, 1997.

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