JOSEFINA COGTONG, PETITIONER, VS. KYORITSU INTERNATIONAL, INC., EX-OFFICIO SHERIFF PEPITO S. CELESTINO OF PASAY CITY AND DEPUTY SHERIFF HECTOR GALURA, RESPONDENTS.

G.R. NO. 160729. July 27, 2007

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-160729/

QUISUMBING, J.:

On appeal by petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure are the Decision[1] dated March 17, 2003 of the Court of Appeals and its Resolution[2] dated November 11, 2003 in CA-GR CV No. 62432, reversing and setting aside the judgment of the Regional Trial Court of Pasay City, Branch 111.

This case involves a parcel of land and a house located at No. 239 Lucban Street, Pasay City, which petitioner Josefina Cogtong owned. On March 7, 1997, petitioner learned from the Notice of Sheriff's Sale that her house and lot had been mortgaged to respondent Kyoritsu International, Inc. (Kyoritsu). She claims that she did not execute a deed of Real Estate Mortgage (REM) nor a promissory note in favor of Kyoritsu, and that the signatures thereon are not hers but forgeries. She also avers that her son, William Lao, admitted that he was the one who forged her signature and mortgaged the property to Kyoritsu. Hence, an action was filed by petitioner on March 10, 1997 seeking to enjoin Kyoritsu from proceeding with the extrajudicial foreclosure sale.

For its part, Kyoritsu denies petitioner's allegation of forgery and alleges that she is its legitimate creditor. To refute the allegation, Kyoritsu presented in court Mr. George Gusilatar, Jr., the head of its credit investigation panel. Gusilatar testified that on March 21, 1994, petitioner went to the office of Kyoritsu; that she submitted a duly-filled application which was signed by her; that upon his advice, she sought a co-maker, her son William Lao. Upon approval of the loan, petitioner and Lao signed a promissory note and deed of REM. After that, a check was issued by Kyoritsu in the amount of P339,000 to cover the loan.

To ensure payment, Kyoritsu required Lao to issue postdated checks. Since some of the checks bounced, verbal demands were made upon the petitioner and Lao to pay. Despite the extension, they did not pay. When petitioner received the demand letter, she called up Kyoritsu's office and promised to pay. However, she failed to do so. Hence, the foreclosure proceedings.

After hearing, the court a quo granted the injunctive relief prayed for by petitioner. On December 16, 1998,[3] it declared that the signatures of petitioner were forged; that the deed of REM and the promissory note were null and void; and that Kyoritsu should return to petitioner her copy of the Transfer Certificate of Title and all documents relating to the land in question. It also enjoined the sheriff of Pasay City from doing any act in furtherance of the intended foreclosure and auction sale of the property.

Aggrieved, Kyoritsu appealed. The appellate court reversed and set aside the judgment of the trial court. It held that petitioner's signatures on the REM and promissory note were not forged, and should be given effect. The dispositive portion of said Decision reads:

> WHEREFORE, in view of the foregoing, the appeal is given DUE COURSE. The Decision dated December 16, 1998 of the Regional Trial Court, Branch 111, of Pasay City, in Civil Case No. 97-0338 is hereby REVERSED and SET ASIDE and a new one is entered DISMISSING [petitioner's] complaint for Injunction and Damages.
>
> SO ORDERED.[4]

Petitioner moved for reconsideration but was denied. Dissatisfied with the Court of Appeals' ruling, petitioner now comes before this Court raising a single issue:

> WHETHER OR NOT THE COURT OF APPEALS' REVERSAL OF THE TRIAL COURT'S FINDING OF FORGERY IS IN ACCORD WITH THE LAW AND GUIDELINES SET FORTH BY THIS COURT IN SEVERAL CASES.[5]

Essentially, the issue is whether the appellate court committed grave reversible error. It hinges on whether petitioner Cogtong's signature was forged.

We rule in the negative.

In the petition before us, petitioner insists that her signatures on the questioned deed of REM and promissory note were forged and that the trial court properly used her signatures on her prayer booklets as sample specimen and standard to compare with her questioned signatures on the deed of REM and promissory note. Also, petitioner avers that Gusilatar is not a credible witness and his testimony is inconsistent and muddled.[6]

The question of forgery is one of fact. Well-settled is the rule that in the exercise of our power of review, the findings of facts of the Court of Appeals are conclusive and binding on this Court. However, there are recognized exceptions, among which is when the factual findings of the trial court and the appellate court are conflicting.[7] In this case, the disagreement between the trial court and the Court of Appeals in the factual conclusion, with regard to the alleged forgery of the signatures on the questioned deed of REM and the promissory note, has constrained us to examine the evidence submitted by the parties.

First, petitioner maintains that her signature was forged. In her petition, she asserts that the signatures in her prayer booklets, which appear in print (in mechanical form where the letters are not continuously connected by rapid or rhythmic lines), are her authentic signatures, while the signatures in the questioned deed of REM and promissory note, which are in cursive style (in flowing strokes with the letters joined together), are forgeries.

This Court rejects petitioner's claim that her signature was forged.

Our Rules of Court provide that the genuineness of a handwriting may be proved by a comparison made by the court of the questioned handwriting and writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.[8] It bears stressing that the Court may validly determine forgery from its own independent examination of the documentary evidence at hand. Hence, this Court scrutinized the evidence on record to determine whether the signature of petitioner was in fact forged.

In a recent case, this Court held that passage of time and a person's increase in age may have a decisive influence in his handwriting characteristics.[9] In order to bring about an accurate comparison and analysis, the standards of comparison must be as close as possible in point of time to the suspected signature.[10] The standards should, if possible, have been made at the same time as the suspected document. The standards should embrace the time of the origin of the document, so that one part comes from the time before the origin and one part from the time after the origin.[11]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

A careful examination of the following documents: (1) a signature card which petitioner endorsed when she opened her savings account with China Banking Corporation on January 10, 1979;[12] (2) Credit Application form executed on March 21, 1994;[13] (3) dorsal portion of her Fortune Care ID card dated August 1, 1992;[14] (4) Community Tax Certificate which she obtained on April 21, 1994;[15] (5) letter to Kyoritsu on April 28, 1994;[16] (6) at the back of the China Bank check[17] when she endorsed the same before depositing it to her savings account; and, (7) in her Savings Account Withdrawal Slip dated March 6, 1994, which were executed before, at the time of and immediately after the execution of the questioned documents, reveals that her signatures on the promissory note (April 29, 1994)[18] and deed of REM (July 8, 1994)[19] have very close resemblance to the signatures contained in the aforementioned documents.

Also, the Court rejects the allegation of petitioner that her signature on the prayer booklets is her authentic signature. The Court agrees with the findings of the Court of Appeals in this wise:

> x x x x The lower court's reliance on the alleged signatures of Josefina in her prayer booklets ... was erroneous because these are self-serving documents. The prayer books were personal effects and private writings in the custody of Josefina which could easily be manipulated to suit her purpose. The authenticity of the alleged signature of Josefina appearing in the complaint ... is, likewise, doubtful considering that the document had been executed long after the execution of the questioned deed of real estate mortgage and the promissory note and, thus, the possibility of altering her signature is not remote. We, likewise, observed that the name Josefina Cogtong appearing on the prayer booklets was so written in capital letters merely for the purpose of identifying who the owner of the booklets is.[20] (Emphasis ours.)

Hence, we cannot utilize the signatures on the prayer booklets as standard for comparison in determining whether petitioner's signature was forged.

Furthermore, the Court has held in a number of cases that forgery cannot be presumed. It must be proved by clear, positive and convincing evidence,[21] and whoever alleges it has the burden of proving the same,[22] a burden which petitioner failed to discharge convincingly. Here, petitioner failed to override the evidentiary value of the duly notarized deed of REM and promissory note. As a notarized document, the deed of REM and promissory note enjoy the presumption of due execution. However, no evidence was presented by petitioner to overcome this presumption. Other than her own declaration that her signatures on the questioned documents were forged and the prayer booklets which she presented during trial, petitioner presented no other proof to corroborate her claim. Such an allegation and evidence are insufficient to overcome a notarized document's presumption of due execution. Hence, this Court cannot accept the claim of forgery in the absence of other witnesses, save for petitioner herself, who would testify that petitioner's signatures on the prayer booklets are in fact her customary way of signing.

Second, petitioner avers that Gusilatar's testimony is inconsistent because he testified that petitioner signed Kyoritsu's cash voucher, yet the records show that the voucher was received and signed by William Lao.

We are not persuaded by petitioner's averment.

Nothing in the transcript of stenographic notes supports it. What the witness, Gusilatar, clearly averred is that petitioner received the loan proceeds as evidenced by a cash voucher issued by Kyoritsu to her and the corresponding check was issued in her favor which check was later deposited and encashed by the petitioner in her account and not William Lao.[23]

Moreover, petitioner questions the fact that Gusilatar did not sign as a witness when in fact it was in his presence that petitioner signed. She also asserts that Gusilatar's testimony with respect to the Community Tax Certificate and Fortune Care ID card is muddled.

These arguments deserve scant consideration. The failure of Gusilatar to sign the document and his alleged fuzzy testimony regarding the Community Tax Certificate and Fortune Care ID card refer only to minute details which do not destroy his credibility as a witness. Also, the best evidence of the existence and authenticity of petitioner's signature in the Community Tax Certificate and Fortune Care ID card are the documents themselves and not the credibility or incredibility of the testimony of Gusilatar.

Finally, we would like to quote the Court of Appeals' remark in its assailed Decision:

> Further, Josefina's claim that it was her son William Lao who stole her title, forged her signature and mortgaged the same to Kyoritsu deserves scant consideration. A reputable lending institution for that matter would certainly not deal in a loan transaction with any person whose collateral is in the name of another person. For their own protection, it is, likewise, common practice among lending institutions to conduct a series of investigation before approval of the loan is recommended... It would be impossible for William Lao to convince Kyoritsu that he was the owner of the property sought to be mortgaged when on the face of the Transfer Certificate of Title No. 117150, the registered owner is Josefina Cogtong.[24] (Emphasis ours.)

WHEREFORE, the instant petition is DENIED for lack of merit. The assailed Decision dated March 17, 2003 of the Court of Appeals and its Resolution dated November 11, 2003 in CA-GR CV No. 62432 are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

---

[1] Rollo, pp. 70-80. Penned by Associate Justice Sergio L. Pestaño, with Acting Presiding Justice Cancio C. Garcia (now a member of this Court) and Associate Justice Eloy R. Bello, Jr. concurring.

[2] Id. at 88.

[3] Records, pp. 543-559.

[4] Rollo, p. 79.

[5] Id. at 12-13.

[6] Id. at 8-23.

[7] Villanueva v. People, G.R. No. 135098, April 12, 2000, 330 SCRA 695, 705.

[8] REVISED RULES OF COURT, Rule 132, Sec. 22.

[9] Domingo v. Domingo, G.R. No. 150897, April 11, 2005, 455 SCRA 230, 237.

[10] Id. at 237-238.

[11] O. Herrera, VI REMEDIAL LAW, 287 (1999).

[12] Records, p. 459.

[13] Id. at 217.

[14] Id. at 219.

[15] Id. at 220.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[16] Id. at 221.

[17] Id. at 235.

[18] Rollo, pp. 40-41.

[19] Id. at 35-39.

[20] Id. at 76-77.

[21] People v. Reyes, G.R. No. 153119, April 13, 2004, 427 SCRA 28, 39.

[22] Fernandez v. Fernandez, G.R. No. 143256, August 28, 2001, 363 SCRA 811, 828-829.

[23] TSN, March 21, 1997, pp. 24-32.

[24] Rollo, p. 79.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.