ROSANA EREÑA, PETITIONER, VS. VIDA DANA QUERRER-KAUFFMAN, RESPONDENT.

G.R. NO. 165853. June 22, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 67899. The assailed decision reversed the decision of the Regional Trial Court (RTC) of Las Piñas City in Civil Case No. LP-98-0056.[2]

Vida Dana Querrer-Kauffman is the owner of a residential lot with a house constructed thereon located at Block 3, Lot 13, Marcillo corner Planza Streets, BF Resort Village, Talon, Las Piñas City. The property is covered by Transfer Certificate of Title (TCT) No. T-48521. The owner's duplicate copy of the title as well as the tax declaration[3] covering the property, were kept in a safety deposit box in the house.

Sometime in February 1997, as she was going to the United States, Kauffman entrusted her minor daughter, Vida Rose, to her live-in partner, Eduardo Victor. She also entrusted the key to her house to Victor. She went back to the Philippines to get her daughter on May 13, 1997, and again left for the U.S. on the same day. Later on, Victor also left for the U.S. and entrusted the house and the key thereto to his sister, Mira Bernal.[4]

On October 25, 1997, Kauffman asked her sister, Evelyn Pares, to get the house from Bernal so that the property could be sold. Pares did as she was told.[5] Kauffman then sent the key to the safety deposit box to Pares, but Pares did not receive it. Kauffman then asked Pares to hire a professional locksmith who could open the safe.[6] When the safe was broken open, however, Pares discovered that the owner's duplicate title and the tax declarations, including pieces of jewelry were missing.[7]

Kauffman learned about this on October 29, 1997 and returned to the Philippines on November 9, 1997. She and Pares went to the Register of Deeds of Las Piñas City and found out that the lot had been mortgaged to Rosana Ereña on August 1, 1997.[8] It appeared that a "Vida Dana F. Querrer" had signed the Real Estate Mortgage as owner-mortgagor,[9] together with Jennifer V. Ramirez, Victor's daughter, as attorney-in-fact.[10]

Kauffman and Pares were able to locate Bernal who, when asked, confirmed that Ramirez had taken the contents of the safety deposit box. When Kauffman told Bernal that she would file a case against them, Bernal cried and asked for forgiveness. Bernal admitted that Jennifer Ramirez had been in a tight financial fix and pleaded for time to return the title and the jewelry.[11]

On March 12, 1998, Kauffman filed a complaint against Ereña, Bernal and Jennifer Ramirez for Nullification of Deed of Real Estate Mortgage and Damages with prayer for a Temporary Restraining Order and Preliminary Mandatory Injunction[12] in the RTC of Las Piñas City. The complaint contained the following allegations:

> - The plaintiff is the owner of a property consisting of a lot with an area of One Hundred Ten (110) square meters located at Blk. 3, Lot 13, Marcillo cor. Pianza Sts., BF Resort Village, Talon, Las Piñas City, covered

by Transfer Certificate of Title No. T-48521 of the Register of Deeds of Las Piñas City, together with a residential house thereon, with a combined assessed value of P40,500.00, and copies of said TCT, and tax declarations of the lot and house x x x;

- Sometime in February 1997, when the plaintiff left for the United States, she entrusted the key of her said house to one Eduardo Victor who, in turn, when he himself went to the United States, entrusted said key to his sister, the defendant Mira V. Bernal;

- Sometime between May and July 1997, said defendant Mira V. Bernal, in conspiracy with her niece, the defendant Jennifer V. Ramirez, who is the daughter of Eduardo Victor, using the key in their possession, opened the locked and the unoccupied house of the plaintiff, forced open the vault of the plaintiff and stole the owner's copy of TCT No. T-48521 and other articles contained therein valued at more than P60,000.00, all belonging to the plaintiff;

- Having in their possession the stolen TCT No. T-48521, defendants Mira V. Bernal and Jennifer V. Ramirez, with the latter falsely representing herself to be the attorney-in-fact of the plaintiff, mortgaged the property in question to the defendant Rosana L. Ereña for the amount of P250,000.00, in Pasay City, for forging the signature of the plaintiff on the corresponding Real Estate Mortgage, which appears to have been notarized by Notary Public Alfredo M. Mendoza and registered as Doc. No. 43, Page No. 1, Book No. VII, Series of 1997, x x x;

- After the execution of the falsified Real Estate Mortgage, the defendants registered the same with the Registry of Deeds of Las Piñas City and had it annotated on the TCT No. T-48521 as Entry No. 7185-15;

- When the defendant Rosana L. Ereña as mortgagee accepted the property in mortgage, she knew fully well that the plaintiff-owner was in the United States at that time and the defendants Mira V. Bernal and Jennifer V. Ramirez were not authorized to mortgage the property as they claimed themselves to be, and this notwithstanding, the defendants who were in bad faith conspired and confederated between and among themselves and fraudulently executed the said document of mortgage for purposes of personal gain;

- The plaintiff has been a victim of fraud as above narrated and the defendant Rosana L. Ereña now being in unlawful possession of her torrens title, the plaintiff is not only in constant apprehension as to what other fraudulent transactions the defendant might enter into involving her title, but is also prevented from pursuing her intention to sell her property, and by reason of which the plaintiff is entitled to recover possession of said title and the cancellation of Entry No. 7185-15 thereon;

- In view thereof, plaintiff is entitled to actual damages in the amount of P200,000.00;

- Likewise, plaintiff suffered moral damages in the form of mental anguish, wounded feelings, serious anxiety and similar injuries in the amount of P200,000.00;

- The plaintiff is also entitled to exemplary damages in the amount of P100,000.00 which plaintiff seeks to impose upon the defendants as a correction or example for the public good, as a deterrent to people from committing fraudulent acts against their fellowmen;

- On account of defendants' unwarranted acts aforecited, the plaintiff is furthermore entitled to attorney's fees in the amount of P50,000.00 as acceptance fee, plus P1,500.00 appearance fee every hearing, for which the defendants should be liable;[13]

The complaint also contained the following prayer:

(a) That upon the filing of this complaint and compliance with the pertinent rule, a temporary mandatory order be issued requiring the defendant Rosana L. Ereña to turn over to the plaintiff the possession of TCT No. T-48521;

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(b) That after due hearing, a writ of preliminary mandatory injunction be issued making permanent the temporary mandatory order;

(c) In case a temporary mandatory order or preliminary injunction be not issued, that the defendant Rosana L. Ereña or whoever be in possession of TCT No. T-48521, be ordered, after due hearing, to turn the same over to the plaintiff, that the Real Estate Mortgage (Annex "D") of this complaint be declared null and void, and Entry No. 7185-15 on said title be cancelled;

(d) That after hearing, the defendants be ordered to pay the plaintiff, jointly and severally, the following amounts:

- P200,000.00 as moral damages;

- P200,000.00 as actual damages;

- P100,000.00 as exemplary damages;

- P50,000.00 as acceptance fee, plus P1,500.00 appearance fee every hearing, as attorney's fees, aside from costs.

Plaintiff further prays for such other relief that this Honorable Court may deem just and equitable in the premises.[14]

Ereña interposed the defense of being a mortgagee in good faith. She likewise interposed a cross-claim against Bernal and Jennifer Ramirez for the refund of the P250,000.00 she loaned to "Vida Dana Querrer."[15]

Jennifer Ramirez and Bernal interposed the common defense that, on November 13, 1998, the City Prosecutor approved a Resolution absolving them of the robbery and estafa cases through falsification of a public document.[16]

During pre-trial, defendants Ramirez and Bernal failed to appear. On motion of the plaintiff, they were thus declared in default.[17]

During trial, Socorro Ramos, Ereñas' aunt, testified that, Richmond Ramirez, Jennifer's husband, and Angel Jose, her grandson and Ereñas' nephew, had been classmates and were compadres.[18] The Ramirez spouses used to go to her house. In one occasion, the Ramirez spouses arrived in her house with one "Vida Dana Querrer" whom Richmond introduced as his half-sister.[19] He also told Ramos that Querrer wanted to mortgage her house and lot as she was going to the U.S.[20] Richmond showed her a copy of TCT No. T-48521, Querrer's identification (I.D.) card, and pictures of the house and lot.[21] Ramos then informed her niece, Rosana Ereña, and asked if she would agree to mortgage the property. Ramos later brought the spouses Ramirez and "Vida Dana Querrer" to Ereña who showed a copy of the title, tax declaration, a tax clearance, all in the name of "Vida Dana Querrer." The spouses also showed an I.D. card of "Vida Dana Querrer" as a worker in Japan, a police clearance, and the location plan of the property.[22] Jennifer Ramirez informed Ereña that Vida Dana was applying for a passport as she was going to Japan and the U.S.[23] "Vida Dana Querrer" likewise introduced herself as Richmond's sister.[24]

Ereña was able to verify from the Office of the Register of Deeds that the property was in the name of Vida Dana Querrer and that it was free of any lien or encumbrance. Ereña and her husband, Ramos, Richmond Ramirez, Angel Jose, and "Vida Dana Querrer" later inspected the house and lot two times.[25] Ereña finally agreed to a P250,000.00 mortgage loan, with the house and lot as security therefor.

On August 1, 1997, Jennifer Ramirez, Rosana Ereña and a woman who identified herself as "Vida Dana Querrer" arrived in the office Notary Public Alfredo M. Mendoza and asked him to prepare a Special Power of Attorney to

be executed by "Vida Dana Querrer," as principal, in favor of Jennifer Ramirez, as attorney-in-fact; and a Real Estate Mortgage contract over the lot covered by TCT No. 48521 to be executed by "Vida Dana Querrer" and Jennifer Ramirez as mortgagors. Ereña and "Vida Dana Querrer" showed to him their respective residence certificates. Mendoza prepared the documents after which the parties affixed their respective signatures above their respective names[26] and their submarkings on the deeds. The Real Estate Mortgage was filed with the Office of the Register of Deeds and annotated at the dorsal portion of TCT No. 48521 on November 7, 1997.[27]

On April 4, 2000, the RTC rendered judgment in favor of the defendants and ordered the dismissal of the complaint. The court ruled that, although the plaintiff adduced proof that she owned the property and that her signatures on the Special Power of Attorney and in the Real Estate Mortgage were forged, nevertheless, defendant Ereña adduced evidence that she was a mortgagee in good faith. The court declared that the woman who pretended to be the plaintiff and lawful owner of the property had in her possession the original copy of the owner's duplicate of title. The defendant thus relied in good faith on the title after ascertaining with the Register of Deeds the identity of Vida Dana Querrer as the registered owner of the property, who turned out to be an impostor. In fact, the defendant still had possession of the owner's duplicate of the title when she received the complaint and summons.

The court cited the ruling of this Court in Cebu International Finance Corporation v. Court of Appeals[28] and Duran v. Intermediate Appellate Court.[29] The fallo of the decision reads:

> WHEREFORE, premises considered, the complaint filed by plaintiff VIDA DANA QUERRER-KAUFFMAN is hereby DISMISSED for lack of merit and the questioned Deed of Real Estate Mortgage dated 1 August 1997 is hereby declared VALID.
>
> No pronouncement as to costs.
>
> SO ORDERED.[30]

Kauffman filed a motion for reconsideration of the decision, alleging that the Cebu International Finance Corporation case is not applicable as the facts therein are different. She insisted that Solivel v. Francisco[31] is the case in point.The RTC denied the motion, prompting Kauffman to file an appeal with the CA where she made the following allegations:

> I
>
> CONSIDERING THAT THE MORTGAGE CONTRACT IN QUESTION WAS EXECUTED AND MADE POSSIBLE THROUGH THE FRAUDULENT MANIPULATION OF AN IMPOSTOR, THE LOWER COURT ERRED IN FINDING THAT DEFENDANT-APPELLANT ROSANA EREÑA WHO ACCEPTED THE MORTGAGE OFFERED BY SAID IMPOSTOR IS A MORTGAGEE IN GOOD FAITH;
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> II
>
> THE COURT A QUO ERRED IN CONCLUDING THAT THE DEED OF MORTGAGE IN QUESTION IS VALID DESPITE ITS OWN FINDING THAT THE SUBJECT PROPERTY IS OWNED BY THE PLAINTIFF-APPELLANT WHOSE SIGNATURE ON THE DEED WAS FORGED;
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> III
>
> THE LOWER COURT ERRED IN APPRECIATING THE JURISPRUDENCE CITED IN ITS APPEALED DECISION AND IN APPLYING THE SAME TO THE CASE AT BAR;
>
> IV
>
> THE LOWER COURT ERRED IN UPHOLDING THE RIGHT OF DEFENDANT-APPELLANT ROSANA

> EREÑA DERIVED FROM A FORGED MORTGAGE CONTRACT AS AGAINST THE RIGHT OF THE PLAINTIFF, THE PROVEN TRUE OWNER OF THE SUBJECT PROPERTY, WHO DID NOT IN ANY WAY CONTRIBUTE TO THE COMMISSION OF THE FRAUD.[32]

On June 10, 2004, the CA rendered judgment in favor of Kauffman. It held that in ruling as it did, the RTC disregarded the clear provisions of the Civil Code, particularly Articles 2085 (2)[33] and 1409 (2)[34] The appellate court relied on the Court's ruling in Insurance Services & Commercial Traders, Inc. v. Court of Appeals[35] and ratiocinated, thus:

> Thus, it has been uniformly held that (I)n a real estate mortgage contract, it is essential that the mortgagor be the absolute owner of the property to be mortgaged; otherwise, the mortgage is void. (Robles vs. Court of Appeals, G.R. No. 12309, Mar. 14, 2000). This was simply in line with the basic requirement in our laws that the mortgagor be the absolute owner of the property sought to be mortgaged (Lorbes vs. Court of Appeals, G.R No. 139884, Feb. 15, 2001). This is in anticipation of a possible foreclosure sale should the mortgagor default in the payment of the loan, and a foreclosure sale, though essentially a "forced sale," is still a sale in accordance with Art. 1458 of the Civil Code. Being a sale, the rule that the seller must be the owner of the thing sold also applies in a foreclosure sale (Cavite Development Bank vs. Cyrus Lim, G.R. No. 131679, Feb. 1, 2000).[36]

Ereña thus filed the instant petition contending that the following legal issues should be resolved:

> I
>
> THE COURT OF APPEALS HAS SERIOUSLY ERRED IN HOLDING THAT RESPONDENT QUERRER-KAUFFMAN IS THE OWNER OF THE PROPERTY MORTGAGED TO PETITIONER DESPITE THE ABSENCE OF SUBSTANTIAL EVIDENCE TO SUPPORT SUCH A CONCLUSION OF FACT.
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> II
>
> THE COURT OF APPEALS HAS SERIOUSLY ERRED IN HOLDING THAT THE CONTRACT OF REAL ESTATE MORTGAGE EXECUTED ON 01 AUGUST 1997 BETWEEN ROSANA EREÑA AND VIDA DANA QUERRER IS A FORGED DEED OF MORTGAGE WITHOUT SUBSTANTIAL EVIDENCE TO ESTABLISH SUCH FACT.
>
> III
>
> THE COURT OF APPEALS HAS SERIOUSLY ERRED IN HOLDING THAT THE DOCTRINE OF A "MORTGAGE IN GOOD FAITH" DOES NOT APPLY TO PETITIONER DESPITE SUBSTANTIAL AND UNDISPUTED EVIDENCE PROVING HER A MORTGAGEE IN GOOD FAITH.[37]

Petitioner avers that respondent failed to prove that she is the owner of the property, and points out that the documentary evidence shows that the negotiator over the property is Vida Dana Querrer and not Vida Dana Querrer-Kaufffman. There is thus no factual basis for the CA's finding that the Real Estate Mortgage was a forged deed. Considering that respondent, as the plaintiff below, failed to adduce clear and convincing evidence that the signature on the Real Estate Mortgage is a forgery, the signature over the printed name in the said document must be the genuine signature of Vida Dana Querrer, the registered owner of the property. Even assuming that respondent was the lawful owner of the property and the signature in the Real Estate Mortgage is a forgery, petitioner insists that she is a mortgagee in good faith as shown by the following facts and circumstances:

> - Before the offer of mortgage was accepted by petitioner Rosana Ereña, she required the production of the owner's copy of TCT No. T-48521. The mortgagee took such step to enable her to know the rights of the mortgagor over the property to be mortgaged. The presentation of the desired certificate was complied with.

- The identity of the mortgagor was ascertained from the personal interview of the relatives of the mortgagor who were the spouses Jennifer and Richmond Ramirez, a known compadre of Angel Jose, the grandson of Socorro Ramos, the aunt of the petitioner. Richmond Ramirez with his wife introduced the mortgagor Vida Dana Querrer as his half-sister who wanted to mortgage the property described in the certificate of title which was registered in her name. The spouses of the mortgagor were accompanied to the house of Rosana Erena by Socorro Ramos, her aunt who acknowledged to know Richmond and Jennifer Ramirez for a period of five years, more or less. Aside from the confirmation of her filial relation to the Ramirez couple by Richmond Ramirez, her personal Identification Card showed the mortgagor's name and proved her identity to be Vida Dana Querrer. The Tax Declarations, tax clearance, the owner's copy of TCT No. T-48521, police clearance, survey plan attested to the fact that the owner of the property subject of the mortgage was the mortgagor.

- Further examination of the certificate of title in the Office of the Register of Deeds of Las Piï¿½as City proved the authenticity of the owner's copy of the certificate.

- The actual physical inspection of the house and lot covered by the certificate in the given address for two (2) times, at least by the mortgagor and mortgagee together with Soccoro Ramos, and the Ramirez couple strengthened her reasonable belief in good faith that the mortgagor is the owner of the property covered by the certificate of title.

- The aforesaid interviews/examination of records, and inspection of the premises showed that earnest and diligent efforts were exerted by the petitioner to ascertain the identity of the mortgagor and her ownership of the subject property. The aforestated steps taken by her are visible proofs of the due diligence exercised by Rosana Erena to ascertain the identity of the mortgagor and respondent's capacity to convey the property to her in a contract of mortgage with her.

- Without admitting on the allegation of a forged signature, the established facts showing the exercise of due diligence and reasonable caution observed by petitioner preparatory to the acceptance and execution of the mortgage contract BELIE the accusation of bad faith to her. In truth, petitioner had been reasonably diligent to meet the justification of a mortgagee in good faith.[38]

For her part, respondent avers that, contrary to petitioner's claim, the issues raised in the instant petition are factual in nature. Moreover, based on the evidence on record, both the trial and appellate courts are one in declaring that she is the lawful registered owner of the property, and that such findings are conclusive on this Court. Besides, the petitioner is proscribed from assailing the findings of the trial and appellate courts since under Rule 45 of the Rules of Court, only questions of law may be raised in this Court. She insists that petitioner failed to establish special and important reasons for the Court to exercise its discretion to review the appellate court's decision.

The petition has no merit.

Indeed, the trial and appellate courts found that respondent, as plaintiff below, adduced clear and convincing evidence that she is the owner of the property and that the signature on the Special Power of Attorney and Real Estate Mortgage are not her genuine signatures. She purchased the property from Edgardo C. Espiritu on June 21, 1997 via a Deed of Absolute Sale,[39] on the basis of which TCT No. 48521 under her name was issued by the Register of Deeds on June 25, 1997.[40] Indeed, when respondent and her sister, Evelyn Pares, confronted Mira Bernal (Jennifer Ramirez's aunt), Bernal pleaded for mercy, on bended knees, after admitting that she and Jennifer Ramirez stole the owner's duplicate copy of the title and the tax declarations covering the property, the air-conditioning unit, television, and the pieces of jewelry owned by respondent, and, thus, impliedly admitted that they forged the respondent's signature on the Real Estate Mortgage:

Q Were you able to see Mira in Pasay, in her house?

A Yes, Sir. We saw her in Pasay, but in Biñan, she suddenly disappeared when we arrived.

Q What time did you see Mira in her house in Pasay?

A Between 11:00 to 12:00 P.M., Sir.

Q But you said you arrived there at 6:00 p.m.?

A Yes, Sir.

Q You mean you waited?

A We waited for her. Dana said, "Mabuti pang ilabas ninyo and mother ni'yo."

ATTY. CABARON:

The witness is narrating, Your Honor.

ATTY. MASANGKAY:

Q So, finally, you were able to talk to Mira in that house?

A Yes, Sir.

Q How about Jennifer?

A No, Sir.

Q Alright, what did you ask Mira?

A My sister asked Mira who destroyed my vault?

Q What was the answer of Mira?

A Mira answered, "Why did you not inform that you will be comingï¿½"

ATTY. MASANGKAY:

Q And then?

A Dana said, what I am asking, you better answer.

Q What was the answer?

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A According to her, it was Jennifer.

Q It was Jennifer who, what?

A She just said Jennifer.

Q What about the title?

A My sister was asking who destroyed the vault, then Mira answered, it was Jennifer. We did not ask anymore because she continued on talking and she said Jennifer was short of funds.

She said, "Nagipit kasi ang bata, naawa ako kaya binigay ko ang titulo.

Q And, who is Jennifer? Is this Jennifer the same Jennifer Ramirez who is one of the defendants here?

A Yes, Sir.

Q Who is she?

A According to my sister, she is the daughter of Eduardo Victor.

Q What else did she say?

WITNESS:

A When she said that Jennifer took it, Dana looked for jewelries. Then the daughter of Beth said, "Tita Dana, sabi ni Tita Ellen, papalitan niya ang mga alahas na iyon."

ATTY. MASANGKAY:

Q And finally, what was the statement of Mira with respect to the transaction?

A When Dana learned about that, she said, we will file a case against them.

Q And so?

A Mira knelt down and began to cry and was begging.

Q What did she say?

A She said, "Parang awa mo na sa akin, Dana. Luluhod ako sa harapan ni'yo, patawarin mo lang kami." She was crying and saying, "Gipit na gipit lang talaga kami. Bigyan mo kami ng konting panahon at ibabalik naming iyon." [41]

The trial court's findings of fact as affirmed by the CA are conclusive on this Court absent evidence that the trial court ignored, misapplied or misconstrued facts and circumstances of substance which, if considered, would alter

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the outcome of the case.

Indeed, under Rule 45 of the Rules of Court, only questions of law may be raised. This is so because this Court is not a trier of facts and is not to re-examine and re-evaluate the testimonial and documentary evidence on record. While the findings and conclusion of the trial court and the appellate court may be reversed in exceptional circumstances, the Court cannot do so in the absence of any such justification or exceptional circumstance, such as in this case.

The ruling of the CA, that the Real Estate Mortgage executed in petitioner's favor is null and void, is correct. The registration thereof with the Register of Deeds and its annotation at the dorsal portion of TCT No. 48521 is also null and void, as provided in the last paragraph of Section 53, P.D. 1529 which reads:

> Sec. 53. Presentation of owner's duplicate upon entry of new certificate. –
>
> x x x x
>
> In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application; any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void (emphasis supplied).

One of the essential requisites of a mortgage contract is that the mortgagor must be the absolute owner of the thing mortgaged.[42] A mortgage is, thus, invalid if the mortgagor is not the property owner.[43] In this case, the trial court and the CA are one in finding that based on the evidence on record the owner of the property is respondent who was not the one who mortgaged the same to the petitioner.

The evidence shows that Mira Bernal and Jennifer Ramirez were able to open respondent's vault and steal the owner's duplicate of TCT No. T-48521 and the tax declarations covering the property; with the connivance of a woman who pretended to be the respondent, they were able consummate the execution of the Real Estate Mortgage by forging the respondent's signature on said deed. We, thus, quote with approval the CA when it held:

> As to the claim of Querrer-Kauffman that her purported signatures on the mortgage are forgeries, the trial court believed her and held that there is "convincing proof to the contention of the plaintiff that the signature of Vida Dana Querrer as appearing on the question[ed] contract was a forgery because the real Vida Dana Querrer who is the plaintiff in this case was actually in the United States at the time of the questioned contract on 1 August 1997" (Decision, p. 226, record). And rightly so because of the immigration entries on her passport, her juxtaposed sample signatures which are clearly different from those in the deed, and the comic incongruity of Querrer-Kauffman as principal and Ramirez as her attorney-in-fact both signing the mortgage deed, all prove and declare beyond reasonable doubt that the subject real estate mortgage is a forgery.[44]

The evidence on record further shows that Jennifer Ramirez and her husband, Richmond Ramirez, used a woman who introduced herself as Vida Dana Querrer to the petitioner and claim as owner of the property. That woman, an impostor, signed the Real Estate Mortgage as mortgagor and the Special Power of Attorney, as principal, and showed to petitioner the owner's duplicate copy of the title that was taken from the respondent's vault, and succeeded in having the Real Estate Mortgage annotated at the dorsal portion of the title. As correctly ruled by the appellate court:

> TCT No. T-48521 (Exh. "A") over the litigated lot was issued on June 26, 1995 in the name of the owner of the covered lot: Vida Dana Querrer, single. That the appellant now goes by the name and status of Vida Dana Querrer-Kauffman, married, has been well explained, and quibble on this raised by Ereña about the identity and interest of the appellant in the suit has been dismissed by the trial court as "of no moment as this

> discrepancy is negligible if no[t] bearing at all to the issue of nullity of the questioned contract" and "has no legal anchorage to cling on." The decision went on to state in no uncertain terms that the appellant Querrer-Kauffman "was able to prove preponderantly that she is the real owner of the subject property."[45]

Indeed, case law is that a Torrens title is generally conclusive evidence of ownership of the land referred to therein.[46] While it serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein[47] (and TCT No. T-48521 shows, on its face, that the owner is the respondent), when the instrument presented for registration is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the assignee or the mortgagee, for that matter, acquire any right or title to the property.[48] In such a case, the transferee or the mortgagee, based on a forged instrument, is not even a purchaser or a mortgagee for value protected by law. Thus, in Joaquin v. Madrid,[49] the Court had the occasion to state:

> In the first assignment of error, it is argued that since par. 2 of Sec. 55 of the Land Registration Act expressly provides that "in all cases of registration of fraud, the owner may pursue all his legal and equitable remedies against the parties to the fraud, without prejudice to the rights of any innocent holder for value of a certificate of title," the second proviso in the same section "that a registration procured by the presentation of a forged deed shall be null and void" should be overlooked. There is no merit in this argument, which would have the effect of deleting the last proviso. This last proviso is a limitation of the first part of par. 2 in the sense that in order that the holder of a certificate for value issued by virtue of the registration of a voluntary instrument may be considered a holder in good faith for value, the instrument registered should not be forged. When the instrument presented is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the assignee in the forged deed acquire any right or title to the property.
>
> In the second assignment of error, it is further argued that as the petitioner is an innocent purchaser for value, he should be protected as against the registered owner because the latter can secure reparation from the assurance fund. The fact is, however, that petitioner herein is not the innocent purchaser for value protected by law. The innocent purchaser for value protected by law is one who purchases a titled land by virtue of a deed executed by the registered owner himself, not by a forged deed, as the law expressly states. Such is not the situation of the petitioner, who has been the victim of impostors pretending to be the registered owners but who are not said owners.[50]

The Court cited this ruling in the Joaquin case in Solivel v. Francisco,[51] to wit:

> Even more in point and decisive of the issue here raised, however, is the much later case of Joaquin v. Madrid, where the spouses Abundio Madrid and Rosalinda Yu, owners of a residential lot in Makati, seeking a building construction loan from the then Rehabilitation Finance Corporation, entrusted their certificate of title for surrender to the RFC to Rosalinda's godmother, a certain Carmencita de Jesus, who had offered to expedite the approval of the loan. Later having obtained a loan from another source, the spouses decided to withdraw the application they had filed with the RFC and asked Carmencita to retrieve their title and return it to them Carmencita failed to do so, giving the excuse that the employee, in-charge of keeping the title was on leave. It turned out, however, that through the machinations of Carmencita, the property had been mortgaged to Constancio Joaquin in a deed signed by two persons posing as the owners and that after said deed had been registered, the amount for which the mortgage was constituted had been given to the person who had passed herself off as Rosalinda Yu. Constancio Joaquin admitted that the spouses Madrid and Yu were, in fact, not the persons who had signed the deed of mortgage.[52]

This ruling was later reiterated in Insurance Services & Commercial Traders, Inc. v. Court of Appeals,[53] where the Court stressed that in order that the holder of a certificate of value issued by virtue of the registration of a voluntary instrument may be considered a holder in good faith and for value, the instrument registered should not

be forged.

In Cavite Development Bank v. Lim,[54] the Court explained the doctrine of mortgagee in good faith, thus:

> There is, however, a situation where, despite the fact that the mortgagor is not the owner of the mortgaged property, his title being fraudulent, the mortgage contract and any foreclosure sale arising therefrom are given effect by reason of public policy. This is the doctrine of "mortgagee in good faith" based on the rule that all persons dealing with the property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. The public interest in upholding the indefeasibility of a certificate of title, as evidence of lawful ownership of the land or of any encumbrance thereon, protects a buyer or mortgagee who, in good faith, relied upon what appears on the face of the certificate of title.[55]

Indeed, a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor of the property given as security and in the absence of any sign that might arouse suspicion, has no obligation to undertake further investigation. Hence, even if the mortgagor is not the rightful owner of, or does not have a valid title to, the mortgaged property, the mortgagee in good faith is nonetheless entitled to protection.[56] This doctrine presupposes, however, that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining a Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the said title. The innocent purchaser (mortgagee in this case) for value protected by law is one who purchases a titled land by virtue of a deed executed by the registered owner himself, not by a forged deed, as the law expressly states. Such is not the situation of petitioner, who has been the victim of impostors pretending to be the registered owners but who are not said owners.[57] The doctrine of mortgagee in good faith does not apply to a situation where the title is still in the name of the rightful owner and the mortgagor is a different person pretending to be the owner. In such a case, the mortgagee is not an innocent mortgagee for value and the registered owner will generally not lose his title. We thus agree with the following discussion of the CA:

> The trial court wrongly applied in this case the doctrine of "mortgagee in good faith" which has been allowed in many instances but in a milieu dissimilar from this case. This doctrine is based on the rule that persons dealing with properties covered by a Torrens certificate of title are not required to go beyond what appears on the face of the title. But this is only in a situation where the mortgagor has a fraudulent or otherwise defective title, but not when the mortgagor is an impostor and a forger.
>
> In a forged mortgage, as in this case, the doctrine of "mortgagee in good faith" cannot be applied and will not benefit a mortgagee no matter how large is his or her reservoir of good faith and diligence. Such mortgage is void and cannot prejudice the registered owner whose signature to the deed is falsified. When the instrument presented is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not lose his title, and neither does the assignee in the forged deed acquire any right or title to the property. An innocent purchaser for value is one who purchases a titled land by virtue of a deed executed by the registered owner himself not a forged deed.[58]

As aforesaid, respondent's signature on the Real Estate Mortgage was forged by an impostor.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The Decision of the Court of Appeals dated June 10, 2004 and Resolution dated October 28, 2004 are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Roberto A. Barrios, with Associate Justices Mariano C. del Castillo and Magdangal M. de Leon, concurring; rollo, pp. 29-36.

[2] Penned by Judge Manuel B. Fernandez, Jr.; id. at 63-66.

[3] Exhibits "B" and "C."

[4] TSN, September 7, 1998, pp. 16-19.

[5] TSN, September 30, 1998, pp. 36-37.

[6] TSN, September 7, 1998, p. 20.

[7] TSN, September 30, 1998, p. 38.

[8] TSN, September 7, 1998, pp. 22-23.

[9] Exhibit "E-3."

[10] Exhibit "E-2."

[11] TSN, September 30, 1998, pp. 47-48.

[12] Records, pp. 1-6.

[13] Records, pp. 2-4.

[14] Id. at 5-6.

[15] Id. at 36.

[16] I.S. No. LP-97-2715.

[17] Records, pp. 118-121.

[18] TSN, September 27, 1999, pp. 19-20.

[19] TSN, September 27, 1999, pp. 5-7.

[20] TSN, September 27, 1999, pp. 5-6.

[21] Exhibits "10" and "10-A."

[22] TSN, November 12, 1998, pp. 35-38.

[23] TSN, November 12, 1998, p. 41.

[24] Id. at 45.

[25] Id. at 37.

[26] Exhibits "E" and "L."

[27] Exhibit "CC."

[28] 335 Phil. 643 (1997).

[29] G.R. No. 64159, September 10, 1985, 138 SCRA 489.

[30] Records, p. 227.

[31] G.R. No. 51450, February 10, 1989, 170 SCRA 218.

[32] CA rollo, pp. 87-88.

[33] Art. 2085. The following requisites are essential to the contracts of pledge and mortgage:

x x x x

(2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged;

[34] Art. 1409. The following contracts are inexistent and void from the beginning:

x x x x

(2) Those which are absolutely simulated or fictitious;

x x x x

[35] 395 Phil. 791 (2000).

[36] Rollo, pp. 33-34.

[37] Id. at 13.

[38] Id. at 22-23.

[39] Exhibit "U."

[40] Exhibit "A."

[41] TSN, September 30, 1998, pp. 45-48. (Underscoring supplied)

[42] Article 2085 (2) of the Civil Code of the Philippines.

[43] Adriano v. Pangilinan, 424 Phil. 578, 587 (2002).

[44] Rollo, p. 32.

[45] Id. at 31-32.

[46] Republic v. Orfinada, Sr., G.R. No. 141145, November 12, 2004, 442 SCRA 342, 359.

[47] Adriano v. Pangilinan, supra note 43, at 588.

[48] Joaquin v. Madrid, 106 Phil. 1060 (1960).

[49] Supra.

[50] Id. at 1063-1064.

[51] Supra note 31.

[52] Id. at 225.

[53] Supra note 35, at 801.

[54] 381 Phil. 355 (2000).

[55] Id. at 368.

[56] Cabuhat v. Court of Appeals, 418 Phil. 451, 460 (2001).

[57] Joaquin v. Madrid, supra note 48, at 1063-1064, reiterated in Solivel v. Francisco, supra note 31.

[58] Rollo, pp. 33-34.

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