

**ADELAIDA MENESES (DECEASED), SUBSTITUTED BY HER HEIR
MARILYN M. CARBONEL-GARCIA, PETITIONER, VS. ROSARIO G.
VENTUROZO, RESPONDENT.**

G.R. No. 172196. October 19, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari[1] of the Court of Appeals' Decision dated October 27, 2005 in CA-G.R. CV No. 78217 and its Resolution dated April 5, 2006, denying petitioner's motion for reconsideration.

The Court of Appeals' Decision reversed and set aside the Decision of the Regional Trial Court (RTC) of Dagupan City, Branch 40 in Civil Case No. D-9040, as the appellate court declared respondent Rosario G. Venturozo the owner of the land in dispute, and ordered petitioner Adelaida Meneses to vacate and surrender her possession thereof to respondent.

The facts are as follows:

On June 8, 1988, plaintiff Rosario G. Venturozo, respondent herein, filed a Complaint[2] for "ownership, possession x x x and damages" in the Regional Trial Court (RTC) of Dagupan City against defendant Adelaida Meneses, petitioner herein, alleging that she (plaintiff) is the absolute owner of an untitled coconut land, containing an area of 2,109 square meters, situated at Embarcadero, Mangaldan, Pangasinan, and declared under Tax Declaration No. 239. Plaintiff alleged that she purchased the property from the spouses Basilio de Guzman and Crescencia Abad on January 31, 1973 as evidenced by a Deed of Absolute Sale,[3] and that the vendors, in turn, purchased the property from defendant as evidenced by a Deed of Absolute Sale[4] dated June 20, 1966. Plaintiff alleged that she has been in possession of the land until May 1983 when defendant with some armed men grabbed possession of the land and refused to vacate despite repeated demands prompting her to engage the services of counsel. Plaintiff prayed that after preliminary hearing, a writ of preliminary mandatory injunction be issued; and that after hearing, a decision be rendered declaring her as the owner of the property in dispute, ordering defendant to vacate the property in question and to pay her P5,000.00 as attorney's fees; P1,000.00 as litigation expenses; P10,000.00 as damages and to pay the costs of suit.

In her Answer,[5] defendant Adelaida Meneses stated that plaintiff is the daughter of Basilio de Guzman, the vendee in the Deed of Absolute Sale dated June 20, 1966 that was purportedly executed by her (defendant) covering the subject property. Defendant alleged that she never signed any Deed of Absolute Sale dated June 20, 1966, and that the said deed is a forgery. Defendant also alleged that she never appeared before any notary public, and she did not obtain a residence certificate; hence, her alleged sale of the subject property to Basilio de Guzman is null and void ab initio. Consequently, the Deed of Absolute Sale dated January 31, 1973, executed by Basilio de Guzman in favor of plaintiff, covering the subject property, is likewise null and void. Defendant stated that she acquired the subject property from her deceased father and she has been in possession of the land for more than 30 years in the concept of owner. Plaintiff's allegation that she (defendant) forcibly took possession of the land is a

falsehood. Defendant stated that this is the fourth case the plaintiff filed against her concerning the land in question.

In her Counterclaim, defendant stated that in view of the nullity of the falsified Deed of Absolute Sale of the subject property, and the fact that plaintiff and her father Basilio de Guzman had never been in actual possession of the property, plaintiff is under legal obligation to execute a deed of reconveyance over the said property in her favor.

The issue before the trial court was whether the sale made by defendant Adelaida Meneses in favor of plaintiff's father, Basilio de Guzman, was valid.[6]

On July 18, 1991, the RTC of Dagupan City, Branch 40 (trial court) rendered a Decision in favor of defendant Adelaida Meneses. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered:

- 1) Declaring the Deed of Absolute and Definite Sale dated June 20, 1966 (Exhibit "B") and the Deed of Absolute and Definite Sale dated January 31, 1973 (Exhibit "A") null and void ab initio;
- 2) Declaring the defendant Adelaida Meneses as the owner of the property in question;
- 3) Ordering the plaintiff Rosario G. Venturozo to execute a Deed of Reconveyance in favor of the defendant Adelaida Meneses over the property in question described in paragraph 2 of the complaint;
- 4) Ordering the plaintiff to pay to the defendant P10,000.00 as damages; and P1,000.00, as litigation expenses.

SO ORDERED.[7]

The trial court found that defendant Adelaida Meneses inherited the land in dispute from her father, Domingo Meneses; that she did not sell her property to Basilio de Guzman in 1966; and that the signature of Adelaida Meneses on the Deed of Absolute Sale dated June 20, 1966 is a forgery. The trial court stated that the signature of Adelaida Meneses, as appearing on the Deed of Absolute Sale dated June 20, 1966, is very much different from her specimen signatures and those appearing in the records of Civil Case No. 1096 in the Municipal Trial Court of Mangaldan. It held that since there was no valid transfer of the property by Adelaida Meneses to Basilio de Guzman, the conveyance of the same property in 1973 by Basilio de Guzman to his daughter, plaintiff Rosario G. Venturozo, was also invalid. The trial court stated that the claim of plaintiff Rosario G. Venturozo, that her parents, Spouses Basilio and Crescencia de Guzman, purchased from defendant Adelaida Meneses the subject property in 1966, is negated by defendant's continued possession of the land and she gathered the products therefrom.

Plaintiff appealed the decision of the trial court to the Court of Appeals.

On October 27, 2005, the Court of Appeals rendered a Decision reversing the decision of the trial court. The dispositive portion of the appellate court's decision reads:

WHEREFORE, the appealed decision of the Regional Trial Court of Dagupan City (Branch 40) is REVERSED and SET ASIDE and a new one rendered declaring plaintiff-appellant the owner of the subject land and ordering defendant-appellee to vacate and surrender possession thereof to the former.[8]

The Court of Appeals stated that appellee Adelaida Meneses failed to prove by clear and convincing evidence that her signature on the Deed of Absolute Sale dated June 20, 1966 was a forgery. Instead, she admitted on direct examination that her signature on the Deed of Absolute Sale was genuine, thus:

Q

I am showing to you Exhibit "6" and Exhibit "A" for the plaintiff a Deed of Absolute Sale o[f] Real Property of one (1) Adelaida Meneses in favor of Basilio de Guzman. Will you examine this if you know this Deed of Absolute Sale?

A.

I do not know this document, sir.

Q.

There is a signature over the name of the vendor Adelaida Meneses which was previously marked as Exhibit "6-a" and Exhibit "A-1" for the plaintiff, will you examine this signature, if do you (sic) know this signature?

A.

This is my signature, sir.[9]

According to the Court of Appeals, such admission is binding on her, there being no showing that it was made through palpable mistake or that no such admission was made.[10]

The Court of Appeals also stated that mere variance of signatures cannot be considered as conclusive proof that the same were forged, as forgery cannot be presumed.[11] Appellee Adelaida Meneses should have produced specimen signatures appearing on documents executed in or about the year 1966 for a better comparison and analysis.[12]

The Court of Appeals held that a notarized document, like the questioned Deed of Absolute Sale dated June 20, 1966, has in its favor the presumption of regularity, and to overcome the same, there must be evidence that is clear, convincing and more than merely preponderant; otherwise, the document should be upheld.[13] Moreover, Atty. Abelardo G. Biala – the notary public before whom the questioned Deed of Sale was acknowledged – testified and confirmed its genuineness and due execution, particularly the signature in question. The appellate court stated that as against appellee Adelaida Meneses' version, Atty. Biala's testimony, that appellee appeared before him and acknowledged that the questioned deed was her free and voluntary act, is more credible. The testimony of a notary public enjoys greater credence than that of an ordinary witness.[14]

The Court of Appeals held that appellee Adelaida Meneses failed to present clear and convincing evidence to overcome the evidentiary force of the questioned Deed of Absolute Sale dated June 1966, which appears on its face to have been executed with all the formalities required by law.

Adelaida Meneses' motion for reconsideration was denied for lack of merit by the Court of Appeals in a Resolution[15] dated April 5, 2006.

Hence, Adelaida Meneses, substituted by her heir, filed this petition raising this lone issue:

I

WHETHER THE DECISION OF THE COURT OF APPEALS, WHICH REVERSED THE DECISION OF THE REGIONAL TRIAL COURT, IS IN KEEPING WITH BOTH LAW AND JURISPRUDENCE.[16]

Petitioner contends that her statement, made during the course of her testimony in the trial court, was taken out of context by respondent to be used merely as an argumentative point. The examining lawyer used the words, "Do you know this signature?" viz.:

Q.

I am showing to you Exhibit "6" and Exhibit "A" for the plaintiff a Deed of Absolute Sale o[f] Real Property of

one (1) Adelaida Meneses in favor of Basilio de Guzman. Will you examine this if you know this Deed of Absolute Sale?

A.

I do not know this document, sir.

Q.

There is a signature over the name of the vendor Adelaida Meneses which was previously marked as Exhibit "6-a" and Exhibit "A-1" for the plaintiff, will you examine this signature, if do you (sic) know this signature?

A.

This is my signature, sir.[17]

Petitioner contends that in the above-quoted transcript of stenographic notes, she was merely asked if she was cognizant of such a signature as hers or whether the signature appearing on the questioned document was similar to that of her signature, and not if she was the one who indeed affixed such signature on the said deed of sale.

She avers that the general rule that a judicial admission is conclusive upon the party invoking it and does not require proof admits of two exceptions: (1) when it is shown that the admission was made through palpable mistake; and (2) when it is shown that no such admission was in fact made. The latter exception allows one to contradict an admission by denying that he made such an admission. For instance, if a party invokes an "admission" by an adverse party, but cites the admission "out of context," then the one making the admission may show that he made no such admission, or that his admission was taken out of context.[18] This may be interpreted as to mean not in the sense in which the admission is made to appear.[19]

Petitioner also contends that a comparison of the signature on the Deed of Absolute Sale dated June 20, 1966 and her specimen signatures, as well as her genuine signature on pleadings, were made by the trial court, and it ruled that her signature on the Deed of Absolute Sale dated June 20, 1966 was a forgery. She submits that the trial court's evaluation of the credibility of witnesses and their testimonies is entitled to great respect,[20] and the appellate court should have given weight to the trial court's findings that her signature on the said Deed of Absolute Sale was a forgery.

The petition is meritorious.

The rule is that the jurisdiction of the Court over appealed cases from the Court of Appeals is limited to the review and revision of errors of law allegedly committed by the appellate court, as its findings of fact are deemed conclusive.[21] Thus, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below.[22] However, this rule admits exceptions,[23] such as when the findings of fact of the Court of Appeals are contrary to the findings and conclusions of the trial court[24] like in this case.

The necessity of a public document for contracts which transmit or extinguish real rights over immovable property, as mandated by Article 1358 of the Civil Code,[25] is only for convenience; it is not essential for validity or enforceability.[26] As notarized documents, Deeds of Absolute Sale carry evidentiary weight conferred upon them with respect to their due execution[27] and enjoy the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity.[28] The presumptions that attach to notarized documents can be affirmed only so long as it is beyond dispute that the notarization was regular.[29] A defective notarization will strip the document of its public character and reduce it to a private instrument.[30] Consequently, when there is a defect in the notarization of a document, the clear and convincing evidentiary standard normally attached to a duly-notarized document is

dispensed with, and the measure to test the validity of such document is preponderance of evidence.[31]

In this case, it should be pointed out that contrary to the finding of the Court of Appeals, the Deed of Sale dated June 20, 1966 did not comply with the formalities required by law, specifically Act No. 496,[32] otherwise known as The Land Registration Act, which took effect on January 1, 1903, as Section 127 of the Act provides:

FORMS

Section 127. Deeds, conveyances, mortgages, leases, releases, and discharges affecting lands, whether registered under this Act or unregistered, shall be sufficient in law when made substantially in accordance with the following forms, and shall be as effective to convey, encumber, lease, release, discharge, or bind the lands as though made in accordance with the more prolix form heretofore in use: Provided, That every such instrument shall be signed by the person or persons executing the same, in the presence of two witnesses, who shall sign the instrument as witnesses to the execution thereof, and shall be acknowledged to be his or their free act and deed by the person or persons executing the same, before the judge of a court of record or clerk of a court of record, or a notary public, or a justice of the peace, who shall certify to such acknowledgment x x x.[33]

In the Deed of Absolute Sale dated June 20, 1966, the Notary Public signed his name as one of the two witnesses to the execution of the said deed; hence, there was actually only one witness thereto. Moreover, the residence certificate of petitioner was issued to petitioner and then it was given to the Notary Public the day after the execution of the deed of sale and notarization; hence, the number of petitioner's residence certificate and the date of issuance (June 21, 1966) thereof was written on the Deed of Absolute Sale by the Notary Public on June 21, 1966, after the execution and notarization of the said deed on June 20, 1966.[34] Considering the defect in the notarization, the Deed of Absolute Sale dated June 20, 1966 cannot be considered a public document, but only a private document,[35] and the evidentiary standard of its validity shall be based on preponderance of evidence.

Section 20, Rule 132 of the Rules of Court provides that before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either: (a) by anyone who saw the document executed or written; or (b) by evidence of the genuineness of the signature or handwriting of the maker.

In regard to the genuineness of petitioner's signature appearing on the Deed of Absolute Sale dated June 20, 1966,[36] the Court agrees with the trial court that her signature therein is very much different from her specimen signatures[37] and those appearing in the pleadings[38] of other cases filed against her, even considering the difference of 17 years when the specimen signatures were made. Hence, the Court rules that petitioner's signature on the Deed of Absolute Sale dated June 20, 1966 is a forgery.

The Court agrees with petitioner that her admission was taken out of context, considering that in her Answer[39] to the Complaint, she stated that the alleged Deed of Sale purportedly executed by her in favor of Basilio de Guzman is a forgery; that she never signed the said Deed of Sale; that she did not appear personally before the Notary Public; and that she did not secure the residence certificate mentioned in the said Deed of Sale. She also testified that she never sold her land to Basilio de Guzman;[40] that she never met the Notary Public, Attorney Abelardo Biala,[41] and that she did not meet Basilio de Guzman on June 20, 1966.[42] The trial court found petitioner and her testimony to be credible, and declared the Deed of Sale dated June 20, 1966 null and void ab initio. These circumstances negate the said admission.

The Court finds the Notary Public's testimony self-serving and unreliable, because although he testified that petitioner was the one who submitted her residence certificate to him on June 21, 1966,[43] the next day after the Deed of Absolute Sale was executed on June 20, 1966, Crescencia de Guzman, respondent's mother, testified that she and her husband got the residence certificate from petitioner and gave it to the Notary Public on June 21,

1966.[44] Thus, it is doubtful whether the Notary Public really knew the identity of the vendor who signed the Deed of Absolute Sale[45] dated June 20, 1966.

The Court notes that the trial court found petitioner and her testimony to be credible. It is a well-settled doctrine that findings of trial courts on the credibility of witnesses deserve a high degree of respect.[46] Having observed the deportment of witnesses during the trial, the trial judge is in a better position to determine the issue of credibility.[47]

In fine, the preponderance of evidence is with petitioner.

WHEREFORE, the petition is GRANTED. The Court of Appeals' Decision dated October 27, 2005 and its Resolution dated April 5, 2006 in CA-G.R. CV No. 78217 are REVERSED and SET ASIDE, and the Decision of the Regional Trial Court of Dagupan City, Branch 40 in Civil Case No. D-9040 is hereby REINSTATED.

No costs.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Docketed as Civil Case No. D-9040, records, p. 1.

[3] Exhibit "B," folder of exhibits, p. 2.

[4] Exhibit "A," id. at 1.

[5] Records, p. 12.

[6] Pre-Trial Order, id. at 18.

[7] Rollo, pp. 60-61.

[8] Id. at 83.

[9] TSN, October 23, 1989, p. 14. (Emphasis supplied.)

[10] Rules of Court, Rule 129, Sec. 4.

[11] Citing *Veloso v. Court of Appeals*, 329 Phil. 398, 406 (1996).

[12] Citing *Causapin v. Court of Appeals*, G.R. No. 107432, July 4, 1994, 233 SCRA 615, 624.

[13] Citing *Bernardo v. Court of Appeals*, 387 Phil. 736, 746 (2000)..

[14] Citing *Sales v. Court of Appeals*, G.R. No. L-40145, July 29, 1992, 211 SCRA 858, 865.

[15] Rollo, p. 89.

[16] Id. at 17.

[17] TSN, October 23, 1989, p. 14. (Emphasis supplied.)

[18] Citing *Atilo III v. Court of Appeals*, 334 Phil. 546, 552 (1997).

[19] Id.

[20] Citing *People v. Binad Sy Chua*, 444 Phil. 757, 766 (2003).

[21] *Fuentes v. Court of Appeals*, 335 Phil. 1163, 1167-1168 (1997).

[22] *Id.* at 1168.

[23] *Id.*

[24] *Bernales v. Heirs of Julian Sambaan*, G.R. No. 163271, January 15, 2010, 610 SCRA 90.

[25] Civil Code, Art. 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by Articles 1403, No. 2 and 1405.

[26] *Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals*, G.R. No. 125283, February 10, 2006, 482 SCRA 164, 180.

[27] Rules of Court, Rule 132.

SEC. 19. Classes of documents.--For purposes of their presentation in evidence, documents are either public or private.

Public documents are:

x x x x

(b) Documents acknowledged before a notary public except last wills and testaments; x x x x

x x x x

SEC. 23. Public documents as evidence. -- Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

x x x x

SEC. 30. Proof of notarial documents. -- Every instrument duly acknowledged or proved and certified as provided by law, may be presented in evidence without further proof, the certificate of acknowledgement being prima facie evidence of the execution of the instrument of document involved.

[28] *Dizon v. Tuazon*, G.R. No. 172167, July 9, 2008, 557 SCRA 487, 494.

[29] *Dela Rama v. Papa*, G.R. No. 142309, January 30, 2009, 577 SCRA 233, 244.

[30] *Fuentes v. Roca*, G.R. No. 178902, April 21, 2010, 618 SCRA 702, 709.

[31] *Dela Rama v. Papa*, supra note 29, at 244-245.

[32] Entitled AN ACT TO PROVIDE FOR THE ADJUDICATION AND REGISTRATION OF TITLES TO LANDS IN THE PHILIPPINE ISLANDS.

[33] Emphasis supplied.

[34] TSN, July 18, 1989, pp. 10-12.

[35] Fuentes v. Roca, supra note 30, at 709.

[36] Exhibit "B," folder of exhibits, p. 2.

[37] Exhibit "8," id.

[38] Exhibits "3," "3-F-1," "7," "7-F-1," id.

[39] Records, p. 12.

[40] TSN, October 23, 1989, pp. 14-16, 21-23.

[41] Id. at 13, 15.

[42] Id. at 15.

[43] TSN, July 18, 1989, pp. 8-9.

[44] TSN, December 19, 1988, pp. 15-18.

[45] Exhibit "A," folder of exhibits, p. 1.

[46] Espano v. Court of Appeals, G.R. No. 120431, April 1, 1998, 288 SCRA 558, 563.

[47] Id.

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