

BIENVENIDO LIBRES AND JULIE L. PANINGBATAN, PETITIONERS, VS. SPOUSES RODRIGO DELOS SANTOS AND MARTINA OLBA, RESPONDENTS.

G.R. No. 176358. June 17, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This petition for review on certiorari assails the September 11, 2006 Decision[1] of the Court of Appeals in CA-G.R. CV No. 65722 reversing and setting aside the Decision[2] of the Regional Trial Court of Lingayen, Pangasinan, Branch 68, in Civil Case No. 17416 holding petitioners liable to respondents as follows:

WHEREFORE, the appealed Decision is hereby REVERSED and SET ASIDE and a new one entered ordering appellees Bienvenido Libres and Julie Paningbatan to jointly pay the appellants, within ninety (90) days from notice the sum of P150,000.00 together with legal interest at twelve percent (12%) per annum from August 18, 1995 until the obligation is fully paid. In case of non-payment, the mortgaged property shall be sold on public auction in accordance with Rule 68 of the Rules of Court.

SO ORDERED.[3]

Also assailed is the January 17, 2007 Resolution[4] denying the motion for reconsideration.

As found by the appellate court, the factual background of the case is as follows:

On August 18, 1995, the appellants (spouses Rodrigo and Martina delos Santos) filed with the court a quo a Complaint for foreclosure of mortgage against the appellees (Bienvenido Libres and Julie Paningbatan), alleging that appellee Bienvenido Libres executed, in favor of the appellants, three separate deeds of Real Estate Mortgage[5] to secure the payment of three loans in the total amount of One Hundred Fifty Thousand Pesos (P150,000.00), which amounts were supposedly delivered by the appellants to appellee Julie L. Paningbatan, upon the instructions of appellee Bienvenido Libres.

According to the appellants, the appellees violated the terms of the mortgage when they failed to pay the principal loan and the accrued interests. The appellants prayed for the court a quo to render judgment ordering the appellees to pay the principal loan plus the stipulated interests, attorney's fees, expenses and costs. Alternatively, in default of such payment, the appellants prayed that the mortgaged property be ordered sold with the proceeds thereof applied to the mortgage debt, accumulated interests, attorney's fees, expenses and costs.

On September 20, 1995, appellees filed their Answer (prepared and signed by appellee Bienvenido Libres) and, except for the qualifications of the parties and the identity of the property involved, appellees denied all the rest of the allegations in the Complaint. Appellees claimed that the documents were falsified and their signatures appearing therein were forged. Moreover, appellee Bienvenido Libres claimed that he never authorized appellee Julie L. Paningbatan to represent him in such "anomalous" transactions. To prove his claim, appellee Bienvenido Libres requested that his signatures in the documents be examined by a

handwriting expert of the National Bureau of Investigation. As relief, the appellees prayed that the case be dismissed with cost against the plaintiffs and that they be paid the amount of P20,000.00 as and by way of moral and exemplary damages and litigation expenses.

During the trial on the merits, the appellants presented two notaries public; an officer from the Registry of Deeds of Lingayen, Pangasinan; three barangay officials who presided and witnessed the barangay confrontation between the appellants and the appellees; and appellant Martina delos Santos herself.

The evidence of the appellants showed that appellees borrowed from the appellants the total amount of One Hundred Fifty Thousand Pesos (P150,000.00) which was delivered in three installments: P25,000.00 on October 23, 1993, P75,000.00 on January 18, 1994, and P50,000.00 on February 10, 1994. As security for the loan, appellee Bienvenido Libres executed three deeds of Real Estate Mortgage, the due execution of which was attested to by the administering notaries public. The deeds were likewise duly registered with the Office of the Register of Deeds of Lingayen, Pangasinan.

In violation of the terms of the Real Estate Mortgage, appellees failed to pay the principal amount and the accrued interests. Formal demand was made but despite receipt thereof, appellees refused to make any payment. Thus, Complaints were filed by the appellants with the barangay against the appellees. Allegedly, during the barangay confrontation, the appellees admitted their indebtedness and promised that they would pay. But no payment was made by the appellees.

For their part, appellees disputed the supposed loan in the amount of P150,000.00. Appellee Bienvenido Libres denied his signature in the Real Estate Mortgage and denied that he appeared before the notaries public to execute any document. Rather, according to appellee Julie Paningbatan, she was the one who transacted with appellant Martina delos Santos, and what she borrowed from the appellants was only P13,000.00. Furthermore, according to appellee Julie Paningbatan, she caused the execution of a different Real Estate Mortgage although similarly dated on October 30, 1993 but it was her godfather, a certain Engr. Carlo Mariñas who signed the name of appellee Bienvenido Libres. Also, appellee Julie Paningbatan denied that her father admitted in the barangay confrontation that he owed the appellants in the amount of P35,000.00. Instead, she was the one who admitted the indebtedness to Martina delos Santos of more or less P25,000.00 including interest.

To support their defense, appellees presented Adelia C. Demetillo, Senior Document Examiner of the National Bureau of Investigation (NBI), who was qualified as an expert witness. Said witness submitted to the court a quo Questioned Documents Report No. 545-697 dated July 4, 1997. According to said handwriting expert, the signature of appellee Bienvenido Libres in the questioned Real Estate Mortgage appears to be different from said appellee's sample and standard signatures. The same finding was made with respect to the signature of one of the witnesses to the contract, Gloria Libres.[6] (Names in emphasis supplied)

Respondent Martina Olba testified during trial that petitioners are her "barangaymates"; that her husband Rodrigo is an overseas contract worker; that on October 23, 1993, petitioners came to her house asking for a loan in the amount of P150,000.00 for the medical expenses of Libres' wife Maria Laverosa; that she told them she had only P25,000.00 cash that day; that she asked for collateral, and Bienvenido Libres (Libres) agreed to constitute a mortgage on their home situated at a 267 square meter unregistered lot in Zamora Street, Mangatarem, Pangasinan (the subject property); that she handed the money to Julie Paningbatan (Paningbatan) who brought the money to Manila; that on October 30, 1993, they proceeded to the residence of notary public Filipina Lapurga Cardenas (Cardenas) who prepared and notarized the mortgage deed (the first deed) which was signed by Libres and his children Juancho (or Pancho) and Gloria Libres as witnesses; that in January 1994, petitioners again came to her house to borrow money for Maria's alleged eye operation; that they again proceeded to Cardenas' residence, and the latter prepared and notarized another mortgage deed (the second deed) which was signed by Libres and his children Juancho (or Pancho) and Gloria Libres as witnesses; that again, Libres came to her to borrow P50,000.00; this time, Cardenas was in Manila, so they proceeded to Atty. Lester Escobar (Atty. Escobar) for the

notarization and acknowledgment of the third mortgage deed; that petitioners paid only a total of P5,000.00 by way of interest, prompting her to make a formal demand for the return of the whole amount of P150,000.00 loaned out to them; that petitioners failed to perform their obligation, and so the matter was brought to the attention of the barangay authorities.[7]

The two notaries public who notarized the three mortgage deeds, Cardenas and Atty. Escobar, testified during trial that Libres, together with his witnesses as well as respondent Martina, signed the subject mortgage deeds and acknowledged the same in their presence.

More particularly, Cardenas testified that Libres - together with his witnesses Pancho Libres and Gloria Libres, as well as respondent Martina - personally went to her house in the morning of October 30, 1993 and asked her to prepare a deed of real estate mortgage over a house and lot which she (Cardenas) herself knew (she claims to have seen the same since it is located within twenty houses from where she lived); that Libres personally wrote his Community Tax Certificate (CTC) number on said deed (the first deed, or the October 30, 1993 mortgage document); that on January 18, 1994, Libres, Martina, Pancho Libres and Gloria Libres again came to her house to execute another deed of real estate mortgage over the same property for an additional consideration, which she prepared and notarized after the parties signed and acknowledged the same in her presence; that she knows the signature in said deeds to be Libres' because the latter personally affixed his signature upon said documents "in front of her"; and that she explained the contents of the said documents in the Ilocano dialect, which Libres and the parties to the documents knew and understood.[8]

Atty. Escobar, on the other hand, testified that with respect to the third mortgage deed (dated February 10, 1994), he personally confirmed Libres' identity by specifically asking him of the same; that he compared Libres' signature in the Tax Declaration to the property and in his residence certificate or CTC; and that both documents were translated in the Ilocano dialect and explained to Libres as to be fully understood by the latter.[9]

It was shown as well during trial that on the occasion of conciliation proceedings held at the barangay level, petitioners admitted to Barangay Captain Henry Evangelista that they borrowed money from the respondents,[10] and petitioner Libres offered to pay respondents with a portion of the subject property, which offer the latter declined.[11]

On the other hand, petitioners - as defendants a quo - presented as their first witness Mrs. Adela Demetillo, Senior Document Examiner II of the National Bureau of Investigation (NBI), who conducted an examination and evaluation of the signatures of Libres and his witnesses (Pancho and Gloria Libres) in the questioned mortgage deeds as well as specimens of their respective signatures. Her findings are contained in a Report[12] which essentially reads, thus:

FINDINGS:

Comparative examination made on the specimens submitted under the stereoscopic microscope, magnifying lens and with the aid of photographic enlargement reveals the following:

- There are significant fundamental differences in handwriting characteristics existing between the questioned and the standard/sample signatures "B.A. LIBRES/BIENVENIDO LIBRES," such as in:
 - manner of execution
 - structural formation of letters
 - other minute identifying details
- There are significant fundamental differences in handwriting characteristics existing between the questioned

and the standard/sample signatures "GLORIA LIBRES/G.L. LIBRES," such as in:

- manner of execution
- structural formation of letters
- other minute identifying details
- No definite opinion can be rendered on the questioned signatures "JUANCHO L. LIBRES" as the standard/sample signatures submitted are insufficient/inappropriate to serve as basis for a scientific comparative examination.

CONCLUSION:

- The questioned and the standard/sample signatures "B.A. LIBRES BIENVENIDO LIBRES" were NOT WRITTEN by one and the same person.
- The questioned and the standard/sample signatures "GLORIA LIBRES/G.L. LIBRES" were NOT WRITTEN by one and the same person.
- No definite opinion can be rendered, per above FINDINGS 3.

REMARKS:

All the specimens submitted are forwarded to the Records Section of this Bureau in the meantime, for safekeeping.[13]

For his part, Libres testified that he knows the respondents who are residents of the same barangay where he resides; that he owns the subject property, which is where he and his family reside; that he knew notary public Cardenas, but denies having appeared before her as well as before Atty. Escobar; that petitioner Paningbatan is her daughter; that he denies having executed the three questioned mortgage deeds; that he admits having appeared at conciliation proceedings before the barangay captain; and that knowing that his signatures on the mortgage deeds were forged, he nevertheless did not file a criminal case against those responsible due to financial constraints.[14]

Petitioner Paningbatan, on the other hand, testified that she was the one who obtained a loan from respondents in the amount of P13,000.00, and not P150,000.00 which respondents claim; that the said amount was for the purpose of redeeming her godfather, the late Engr. Carlo Mariñas' vehicle which was pawned to a certain Mrs. Margate; that in order to secure the payment thereof, she executed a deed of mortgage dated October 30, 1993 over her father Bienvenido Libres' house and lot (the subject property), but that it was her godfather Engr. Mariñas who signed - forged - her father's signature on said mortgage deed; that she was able to secure her father's CTC and the Tax Declaration to the property; that she did all these without the knowledge and consent of her father; that it is not true that her father secured a loan from respondents in the total amount of P150,000.00 in order to pay for her mother's medical expenses in relation to the latter's eye and pulmonary problems; that it was her sister and brother-in-law who paid for her mother's medical expenses; that she knows nothing of the three mortgage deeds in issue; that she, together with her father, attended conciliation proceedings at the barangay level.[15]

Petitioners, however, did not call on the alleged witnesses to the mortgage deeds, Pancho and Gloria Libres, to testify in their behalf.

On November 3, 1999, the trial court rendered its Decision[16] dismissing the case. The dispositive portion thereof reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

- Ordering the dismissal of this instant case against the defendants Bienvenido Libres and Julie Paningbatan with cost against the plaintiffs; and
- Ordering the plaintiffs to pay jointly and severally defendants moral and exemplary damages in the sum of P20,000.00, and P10,000.00, respectively, as well as litigation expenses of P10,000.00.

SO ORDERED.[17]

Respondents filed their appeal with the Court of Appeals, which rendered the assailed Decision and Resolution reversing the trial court's decision.

The sole issue for resolution in the instant petition is:

WHETHER THE LOANS EXTENDED IN FAVOR OF THE PETITIONERS ARE SECURED BY A VALID AND LEGAL REAL ESTATE MORTGAGE, WHEN IT WAS PROVEN DURING THE TRIAL THAT THE ABSOLUTE OWNER THEREOF WAS NOT THE ONE WHO SIGNED THE DEED OF REAL ESTATE MORTGAGE, MUCH LESS AUTHORIZED HIS OWN DAUGHTER TO VALIDLY CONTRACT THE SAME.

Petitioners insist that Libres did not execute the three mortgage deeds sued upon, and that his signatures therein are mere forgeries. Hence, there should be no mortgage upon the property that may be the object of respondents' foreclosure suit; that the trial court was correct in dismissing the same.

In ordering the dismissal of the case, the trial court gave more weight to the NBI handwriting expert's opinion that it was possible that Libres' signatures in the three mortgage deeds in question could have been forged; that since Bienvenido Libres did not sign the mortgage deeds, respondents' claimed loan credits should be negated; thus, the subject property covered by the falsified mortgage deeds may not be foreclosed upon. The trial court believed Paningbatan's explanation that she was the one who obtained a loan from respondents in the amount of P13,000.00, and that it was Engr. Mariñas who forged Bienvenido's signature on said mortgage deed.

On the other hand, the Court of Appeals placed weight on the direct testimonies of the two notaries public, who categorically declared that Libres personally appeared before them and signed the mortgage deeds in their presence. The appellate court opined that, since they possessed the character of public documents - by their subsequent notarization and acknowledgment, the questioned mortgage deeds must be accorded the presumption of regularity. Evidence to contradict them must be clear, convincing and more than merely preponderant.[18] It ruled that any claim of forgery of these documents must be proved with evidence, which in petitioners' case, was not sufficiently established, beyond mere denials and the testimony and report of the NBI handwriting expert, which it considered as unconvincing.

The Court of Appeals held that the NBI handwriting expert's opinion is merely persuasive and not conclusive, citing *Jimenez v. Commission on Ecumenical Mission and Relations*,[19] where we held that resort to handwriting experts, although helpful in the examination of forged documents because of the technical procedure involved in analyzing them, is not mandatory or indispensable to the examination or comparison of handwriting, and a finding of forgery does not entirely depend upon the testimony of these experts.

The appellate court likewise found as fatal the failure of the petitioners to present the testimonies in court of Pancho and Gloria Libres, who could have readily confirmed the truth of petitioners' defense. Finally, it found that Paningbatan's claim of forgery committed by her godfather was self-serving.

We sustain the appellate court.

Notarial documents executed with all the legal requisites under the safeguard of a notarial certificate is evidence of a high character. To overcome its recitals, it is incumbent upon the party challenging it to prove his claim with clear, convincing and more than merely preponderant evidence.[20] A notarial document, guaranteed by public attestation in accordance with the law, must be sustained in full force and effect so long as he who impugns it does not present strong, complete, and conclusive proof of its falsity or nullity on account of some flaws or defects provided by law.[21] Without that sort of evidence, the presumption of regularity, the evidentiary weight conferred upon such public document with respect to its execution, as well as the statements and the authenticity of the signatures thereon, stand.[22]

Against the bare denials and interested disavowals of the petitioners, the testimonies of the two notaries public must prevail. Their identical and categorical declarations that Libres signed the mortgage deeds in their presence present a more convincing picture of the actual events that transpired.

We agree with the appellate court's ruling that petitioners' failure to present the two witnesses to the mortgage deeds, Pancho and Gloria Libres, is fatal to their cause. Their testimonies, if favorable to petitioners' cause, would have dissipated, by way of corroboration, the courts' justifiable supposition that petitioners' testimonies are merely self-serving. He who disavows the authenticity of his signature on a public document bears the responsibility to present evidence to that effect. Mere disclaimer is not sufficient. At the very least, he should present corroborating witnesses to prove his assertion. At best, he should present an expert witness.[23] This is because as a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.[24]

Petitioners, left with no other recourse than their self-serving declarations for lack of corroborating evidence, seek redemption through the lone testimony of the NBI handwriting expert, who understandably is the sole disinterested witness for the petitioners. This, however, cannot suffice. Standing alone amidst the mass of evidence adduced by the respondents and their witnesses, the NBI handwriting expert's opinion may not overturn the categorical declaration of the notaries public that Libres signed the mortgage deeds in their presence. As we held in *Leyva v. Court of Appeals*,[25] the positive testimony of the attesting witnesses ought to prevail over expert opinions which cannot be mathematically precise but which, on the contrary, are subject to inherent infirmities. Besides, the handwriting expert's testimony is only persuasive, not conclusive.

We cannot discount petitioners' admission during barangay conciliation proceedings that they owed respondents money and offered to pay the same with a portion of the subject property.[26]

Certainly, there is a preponderance of evidence in respondents' favor. We see no conflicting factual milieu; the dilemma lay merely in the appreciation of the evidence for both parties. Where in this respect the trial and appellate courts could not agree, we must intervene and, once again, exhibit the Court's wisdom in order to dispense justice with an even hand.

We note however, that the subject property is Bienvenido and Maria Libres' family home, although the truth of this observation could not be known from the evidence presented. It is thus incumbent upon the trial court to make a prior determination in this respect, taking to mind the provisions of the Family Code on the family home, specifically Articles 152 up to 162 thereof.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated September 11, 2006 in CA-G.R. CV No. 65722 ordering petitioners to pay respondents the amount of P150,000.00 with legal interest thereon of 12% until fully paid, and the Resolution dated January 17, 2007 denying the motion for reconsideration, are AFFIRMED.

However, considering the possibility that the subject property constitutes the petitioners' family home, the Regional Trial Court of Lingayen, Pangasinan, Branch 68 is DIRECTED to conduct a thorough inquiry into the nature, circumstances and value of the same, in accordance with and taking into consideration the provisions of the Family Code, and immediately make the corresponding determination in respect thereof prior to execution.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Reyes, and Brion, JJ., concur.

* Designated in lieu of Associate Justice Antonio Eduardo B. Nachura, who is on official leave under the Court's Wellness Program, per Special Order No. 507 dated May 28, 2008, signed by Chief Justice Reynato S. Puno.

[1] Rollo, pp. 85-96; penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Jose L. Sabio, Jr. and Rosalinda Asuncion-Vicente.

[2] Id. at 16-42; penned by Judge Salvador I. Vedaña.

[3] Id. at 95.

[4] Id. at 102-104.

[5] Id. at 39. The first allegedly dated October 30, 1993 for the amount of P25,000.00 (Exhibit "A"); the second, January 18, 1994 for P75,000.00 (Exhibit "B"); and the third, February 10, 1994, for P50,000.00 (Exhibit "G").

[6] Id. at 86-88.

[7] Id. at 31-34.

[8] Id. at 26-27; TSN, CARDENAS, March 6, 1999, pp. 11-23.

[9] TSN, ESCOBAR, August 26, 1996, pp. 3-7.

[10] TSN, EVANGELISTA, April 17, 1996, p. 11.

[11] TSN, BRGY. CAPT. OLEGARIO, June 5, 1996, pp. 9-10.

[12] Questioned Document Report No. 545-697.

[13] Rollo, pp. 35-36.

[14] Id. at 36-37.

[15] Id. at 38-39.

[16] Id. at 16-42.

[17] Id. at 26-27.

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

[19] G.R. No. 140472, June 10, 2002, 383 SCRA 326.

[20] Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals, G.R. No. 125283, February 10, 2006, 482 SCRA 164, 174.

[21] Carandang-Collantes v. Capuno, G.R. No. L-55373, July 25, 1983, 123 SCRA 652, 664, citing Chilianchin v.

Coquingo, 84 Phil. 714; Yason v. Arciaga, G.R. No. 145017, January 28, 2005, 449 SCRA 458, 471-472.

[22] Barcenas v. Tomas, G.R. No. 150321, March 31, 2005, 454 SCRA 593.

[23] Id., Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals, *supra*.

[24] Heirs of Gregorio v. Court of Appeals, G.R. No. 117609, December 29, 1998, 300 SCRA 565, 574.

[25] G.R. No. 71939, January 25, 1988, 157 SCRA 314.

[26] See footnotes 9 and 10.

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