

FRANCISCA SALOMON AND ABRAHAM GATDULA, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT AND FROILAN BLANCO AND ARACELI CALIMBAS, RESPONDENTS.

G.R. No. 70263, May 14, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari of a decision of the Intermediate Appellate Court (now Court of Appeals) in AC-G.R. CV No. 70059 reversing the decision of the Court of First Instance of Bataan (now Regional Trial Court) in Civil Case No. 3861 entitled, "Francisca Salomon and Abraham Gatdula v. Araceli Calimbas and Froilan Blanco."

The antecedent facts in this case are as follows:

Macario Salomon was the registered owner of Lot No. 50 of the Pilar Irrigation Cadastre, containing an area of 638 square meters, and covered by Original Certificate of Title No. 283 of the Registry of Deeds of Bataan. He is the father of petitioner Francisca Salomon and Josefa Salomon, who is now deceased. The latter had two children, namely petitioner Abraham Gatdula and Rogelio Gatdula.

On July 11, 1941, OCT No. 283 was cancelled by Transfer Certificate of Title No. 5333 in favor of the children of Macario Salomon, namely: Francisca Salomon, married to Florencio Buenaflor, 1/2 share of the lot, and Josefa Salomon, married to Ramon Gatdula, 1/2 share. Josefa Salomon and her husband Ramon Gatdula died in 1950 and 1951, respectively.

After the war, petitioner Francisca Salomon, acting as the administratrix of said lot, permitted Felisa Calimbas, mother of respondent Araceli Calimbas, to construct a house of light materials on said lot, on the condition that Felisa Calimbas shall pay the taxes thereon, take good care of the fruit trees on the lot and to vacate the land should the owners decide to use the same or should the latter dispose or sell it to other persons.

Sometime in 1973, petitioner Salomon learned that the respondent Araceli Calimbas built a house of strong materials on the lot. An inquiry from the Office of the Register of Deeds disclosed that TCT No. 5333 was cancelled and TCT No. 7544 was issued on May 22, 1958 in the names of: Francisca Salomon, widow - 1/2 share; Rogelio Gatdula, married to Teresita Sangalang, 1/4 share; and Abraham Gatdula, single, 1/4 share. Records also disclosed that on the same date, TCT No. 7544 was cancelled and TCT No. 7545 was issued in the name of respondent Araceli Calimbas. The basis of the said cancellation was a certain Extra judicial Partition with Absolute Sale purportedly executed on August 10, 1953 before respondent Froilan Blanco, then Justice of the Peace of Pilar, Bataan, by petitioners Salomon and Abraham Gatdula and by the deceased co-owner Rogelio Gatdula.

Petitioner Salomon submitted xerox copies of the said deed for examination and analysis. The findings of the PC Crime Laboratory at Camp Crame revealed that the petitioners' signatures, as appearing in the said document

were forgeries.

The case was thereafter brought by petitioner Salomon to the Special Action Unit of Malacañang and to the Office of Civil Relations of Camp Crame. However, respondent Araceli Calimbas still refused to return the property subject of this case. Hence, petitioners filed the complaint on June 19, 1974 with the trial court to nullify the Extrajudicial Partition and Deed of Absolute Sale dated August 10, 1953, to cancel TCT Nos. 7544 and 7545 and to restore the efficacy of TCT No. 5333.

Respondents filed their answers denying the facts in the complaint and contending that sometime in the first week of August, 1953, petitioner Francisca Salomon and the respondent Calimbas agreed to the sale of the aforementioned lot for P450.00, and that the petitioner Francisca Salomon undertook to have all the necessary documents prepared. They further submit that petitioner Salomon supplied the technical description of the lot covered by TCT No. 5333, and gave the names of Rogelio and Abraham Gatdula and her own name to be placed as owners in the document; that respondent Calimbas thereafter requested co-respondent Blanco, then Justice of the Peace, to prepare the document based on facts given by petitioner. Respondents also tried to show that on August 9, 1953, Calimbas paid P450.00 as consideration to petitioner Salomon who signed the receipt of payment in the presence of co-petitioner Abraham Gatdula and Rogelio Gatdula, in the house of Salomon at Caloocan City. Maximo Inlong and respondent's brother Miguel Calimbas acted as witnesses. Respondents further claimed that the following day, Salomon, Abraham and Rogelio Gatdula signed and ratified the Extrajudicial Partition and Deed of Absolute Sale in the presence of respondent Calimbas before Froilan Blanco as Justice of the Peace. Blanco and Basilio Ontingco, a mail carrier, both acted as witnesses to the signing. In May, 1958, respondent Calimbas allegedly brought the aforesaid signed document and TCT No. 5333 to the Register of Deeds for registration. The title on the lot was finally transferred in the name of respondent Calimbas.

On May 5, 1981, the Court of First Instance of Bataan (now Regional Trial Court) rendered a decision, the dispositive portion of which states:

"RESULTINGLY, judgment is hereby rendered:

"1. Declaring as null and void the Extra-judicial Partition and Deed of Absolute Sale dated August 10, 1953;

"2. Cancelling Transfer Certificate of Title No. 7544 and Transfer Certificate of Title No. 7545 covering Lot 50 of the Pilar (Bataan) Irrigation Cadastre;

"3. Restoring the efficacy of Transfer Certificate of Title No. 5333, likewise, covering Lot 50 of the Pilar (Bataan) Irrigation Cadastre;

"4. Ordering defendant Araceli Calimbas to remove at her presence her house constructed on Lot 50 and directing the said defendant to pay to plaintiffs the amount of P50.00 as reasonable monthly rental on Lot 50 since the construction of her house on the said lot;

"5. Restoring plaintiffs to the possession of Lot 50;

"6. Directing defendants; jointly and severally, to pay attorney's fees the sum of P3,500.00 and to pay cost of the suit.

"SO ORDERED." (p. 35, Rollo)

In the meantime, petitioner Salomon filed Administrative Case No. 2505-MJ with the Supreme Court against Froilan Blanco, Justice of the Peace of Pilar, Bataan. In a decision dated November 12, 1981, this Court found the respondent guilty of notarizing the deed of partition and sale in the absence of one of the supposed deponents, namely petitioner herein.

Not satisfied with the decision of the trial court in the civil case, the respondents Blanco and Calimbas appealed to the respondent Intermediate Appellate Court.

On January 8, 1985, the respondent appellate court rendered judgment reversing the decision of the trial court. The dispositive portion of the judgment states:

"WHEREFORE, the decision appealed from is hereby REVERSED and set aside and another judgment is rendered dismissing the complaint and ordering plaintiffs-appellees to jointly and severally pay appellant Araceli Calimbas P10,000.00 and appellant Froilan Blanco P2,500.00 for attorney's fees and expenses of litigation plus costs.

"SO ORDERED." (pp. 46-47, Rollo)

Hence, the instant petition was filed, praying for a reversal of the above-mentioned decision in favor of private respondents, with the petitioner assigning the following errors:

"a) RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK, OR IN EXCESS OF JURISDICTION IN DISREGARDING THE FINDINGS AND RULINGS OF THIS HONORABLE COURT IN ADMINISTRATIVE MATTER NO. 2505-MJ ENTITLED 'FRANCISCA SOLOMON V. JUDGE FROILAN BLANCO';" (p. 10, Rollo)

"b) RESPONDENT COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN HOLDING THAT THE ACTION BEING FOR ANNULMENT ON THE GROUND OF FRAUD HAD PRESCRIBED AFTER THE LAPSE OF FOUR YEARS." (p. 11, Rollo)

"c) RESPONDENT COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN HOLDING THAT THE ACTION IS BARRED BY LACHES." (p. 12, Rollo)

"d) THE RESPONDENT COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN ORDERING THE PETITIONERS TO JOINTLY AND SEVERALLY PAY PRIVATE RESPONDENT ARACELI CALIMBAS P10,000 AND PRIVATE RESPONDENT FROILAN BLANCO P2,000 FOR ATTORNEY'S FEES AND EXPENSES AND LITIGATION PLUS COSTS." (p. 13, Rollo)

In its first assigned error, petitioner alleges that the respondent appellate court did not give credence to the findings of PC Document Examiners Doctura and Tabo who found the signatures of petitioners on the questioned document as forged, even as this Court had already ruled on the correctness of such findings in Administrative Matter No. 2505-MJ against Judge Froilan Blanco who notarized the questioned deed of Extrajudicial Partition with Absolute Sale in the absence of the supposed vendors, petitioners herein.

On this matter, the appellate court reversed the factual findings of the trial court and held as follows:

"This Court is convinced that the findings of Doctura and Tabo have only persuasive effects and not necessarily conclusive upon this Court. The positive testimonies of the witnesses to the execution of said document are entitled to some weight as there is no reason for them to be interested in this case, especially so in the case of Basilio Ontingco.

"x x x.

"The Court may disregard the findings of a handwriting expert¹⁴. Indeed in some instances, the report of even NBI handwriting experts are rendered of doubtful integrity as sometimes forgers possess better skills than genuine writers themselves¹⁵, and that, in general, an expert's testimonies are based on conjectures¹⁶. Judges are not bound by the testimony of expert witnesses when the question is the determination of genuineness of handwriting by comparison. They may arrive at their own conclusion¹⁷." (pp. 44-45, Rollo)

We find the petitioners' allegations in its assigned error meritorious. Although courts are not ordinarily bound by expert testimonies, they may place whatever weight they choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, the fact that he is a paid witness, the relative opportunities for study or observation of the matters about which he testifies, and any other matters which serve to illuminate his statements. The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect (20 Am. Jur., 1056-1058). The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of an abuse of that discretion.

The records show that respondents Araceli Calimbas and Froilan Blanco presented as witnesses Blanco himself both as judge notary and subscribing witness to the said deed, and Basilio Ongtingco, as the other subscribing witness, who both affirmed the genuineness of the said document. On the other hand, petitioners presented Manuel Doctura, Officer-in-Charge of the Questioned Document Section, PC Crime Laboratory, and Crispina Tabo, who had been a document examiner for 10 years at the PC Crime Laboratory at Camp Crame. Doctura testified that the signatures of petitioners on the deed of extra-judicial partition and absolute sale did not appear to be the same signatures of the vendors, petitioners herein, appearing on other documents bearing their undisputed signatures. The respondents Calimbas and Blanco admitted the competency and qualification of witness Doctura as a handwriting expert although the latter died before he was cross-examined. Nonetheless, his testimony on the forged signatures was not stricken out from the records and was in fact corroborated by the other expert witness Tabo. Tabo was directed by the court to compare the questioned signatures supposedly made in 1953 with the undisputed standard signatures made by petitioner Salomon in the years 1946, 1951 and 1952 (TSN, Crispina Tabo, December 15, 1976). After noting the several differences between the standard signatures and questioned signatures, document examiner Tabo likewise testified and concluded that the signatures in the disputed document were not made by petitioner Salomon.

In placing greater weight to the testimonies of the handwriting experts than to the testimonies of the judge notary and subscribing witness Ongtingco, the trial court said *inter alia*:

"This Court is prone to believe the position taken by plaintiffs.

"To prove the forgeries, no less than PC document examiners Doctura and Tabo testified and were in unison in their conclusion that the signatures of both Francisca and Abraham on the document (Exhibit A; Exhibit 2) were not theirs after comparison with their sample standard signatures (Exhibits C, M, M-1 to M-7, N, N-1 to N-17, O, O-1, P, P-1 to P-7, Q, Q-1, to Q-4).

"Defendants parried the claim of forgery by presenting documents (Exhibit 6, 6-A, 6-B, 7, 7-A) to prove that the signatures of Francisca and Abraham really belonged to them. They tried to prop up their stand by the testimonies of subscribing witnesses - the judge and the mail carrier-that all the parties did really sign the document.

"The Court accords greater respect to the testimonies of Doctura and Tabo, experts to the very line which is the subject of examination, that is handwritten. This especially when they arrived at their unanimous, verdict after comparison of the questioned signatures of Francisca and Abraham on documents executed close and proximate to August 10, 1953, the date of the execution of the questioned documents (*Reyes v. Vidal*, 96 Phil. 130) (sic).

"As against the testimonies of the subscribing witnesses to the document in question, the judge acting as notary public ex officio, who in defense of his position would naturally not dispute the authenticity of the very document he had notarized, and the mail carrier who was merely picked up by Araceli at the spur of the moment, this court would give greater and heavier weight and credence to the expertise of document examiners Doctura and Tabo testifying on technical matters which beyond doubt are their domain (Lopez vs. Court of Appeals, L-31494, Jan. 23, 1978, 81 SCRA 153" (pp. 29-32, Rollo).

Aside from relying on the expert testimonies, the trial judge also based its conclusion of forgery on the physical appearance and condition of the questioned document. As observed by the trial court:

"The aforementioned defects in the document would show how inaccurately and hurriedly it was prepared and in the process vital data were misstated and some necessary details added. The characteristic haste in the preparation of the document was best exemplified in the typographical errors and erasures apparently pictured thereon muddling the document's facial authenticity.

"Even the identity of the one who prepared the document was quandary by itself. For in her Answer (par. 5(c)) the document while in her testimony (tsn, pp. 6, 7, 8, October 17, 1977) she claimed she was the one responsible for its preparation. Even the judge chipped in the confusion when he assuredly stated that he prepared the document upon instructions of Araceli who supplied him some of the data (tsn, p. 3, 4, 5, May 3, 1979). From the very appearance of the document it could be gauged that Araceli threw into the lap of the judge the job of completing the contents thereof through various additions and in the absence of plaintiffs." (pp. 32-33, Rollo).

We accord respect to the conclusions of the lower court. The condition and physical appearance of a questioned document may help in determining whether it is genuine or forged. Subscribing witnesses may forget or exaggerate what they really know, saw, heard or did; they may be biased and therefore, tell only half truths to mislead the court or favor one party to the prejudice of the other. This cannot be said of the condition and physical appearance of the questioned document itself (*Junquera v. Borromeo, et al.*, No. L-18498, March 30, 1967). Moreover, factual findings show, and these were not overturned by the appellate court, that petitioner Salomon was not present during the time that the questioned document was allegedly signed and ratified before judge-notary Blanco. The totality of evidence on record and the existence of several factors and circumstances surrounding the disputed deed of partition and sale, which We shall enumerate herein, leave no alternative to this Court but to accept the conclusion that the said deed was forged. These are: 1) the expert testimonies of two handwriting experts both declaring that the signatures of petitioners in the deed were forged; 2) the inconsistent allegations of the respondents in their answer and in their testimonies as to who took charge of the preparation of the questioned document; 3) the physical appearance of the document showing several typographical errors and insertions on its face; 4) the discrepancies and mistakes in the facts and contents of the said document; 5) the visible difference between the signatures of petitioner Abraham Gatdula in the first and second pages of the document as correctly examined by the trial court; 6) the absence of petitioner Salomon during the time of the alleged signing and notarization of the document before Justice of the Peace Froilan Blanco.

Thus, it is error for the respondent appellate court to disregard the findings of the trial court. Although the rule is settled that the findings of fact of the Court of Appeals are final and non-reviewable on appeal, this case, however, falls within the exceptions to this rule, wherein the factual findings of the respondent appellate court are contrary to those of the trial court and are mere conclusions without citation of specific evidence. In this case, We find that a reversal of the findings of the appellate court becomes proper. It is generally recognized that the conclusions and findings of facts by the trial court are entitled to great weight and will not be disturbed on appeal unless for strong and cogent reasons because the trial court is in a better position to examine real evidence as well as to observe the demeanor of witnesses while testifying on the case (*Macua v. Intermediate Appellate Court*, No. 70810, October

26, 1987, 155 SCRA 29). No compelling reasons or clear specific contrary evidence are cited by the respondent appellate court to justify the reversal of the lower court's findings. Between the factual findings of the appellate court and the trial court, the trial court's conclusion must prevail over the appellate court (*Teodoro v. Court of Appeals*, 55 SCRA 547).

Anent their second assigned error, petitioners allege that the issuance of the Transfer Certificate of Title No. 7545 to respondent Araceli Calimbas was by means of forgery of the questioned document and is therefore, null and void; that since an action to declare the nullity of a contract does not prescribe under the law, the respondent appellate court erred in ruling that petitioner's action was brought beyond the prescribed period of four years in cases of annulment of contracts.

This contention is impressed with merit. Article 1391 of the Civil Code provides that an action to annul a contract on the ground of vitiated consent must be filed within four years from the discovery of the vice of consent. The case at bar however, involves not a voidable contract tainted with fraud, mistake, undue influence or intimidation as grounds for its nullification but a contract that is totally null and void. Petitioners declared in their complaint that they had not signed nor acknowledged the questioned deed of extra-judicial partition with absolute sale of the land. This We found to have been sufficiently proven as found by the trial court. This means that they had not given their consent to the sale of the lot in favor of respondent Calimbas. Hence, the absence of such consent made the said document null and void ab initio and is subject to attack at any time (*Baranda v. Baranda*, No. 73275, May 20, 1987, 150 SCRA 59). Moreover, it is recognized in our jurisprudence that a forged deed is a nullity and conveys no title (*Director of Lands v. Seymour Addison, et al.*, 49 Phil. 19). In view thereof, Article 1410 of the Civil Code clearly provides that an action to declare the inexistence of void contracts does not prescribe (*Teja Marketing v. IAC*, 148 SCRA 347). Likewise, We have consistently ruled that when there is a showing of such illegality, the property registered is deemed to be simply held in trust for the real owner by the person in whose name it is registered, and the former then has the right to sue for the reconveyance of the property. The action for the purpose is also imprescriptible. As long as the land wrongfully registered under the Torrens system is still in the name of the person who caused such registration, an action in personam will lie to compel him to reconvey the property to the real owner (*Baranda v. Baranda*, No. 73275, May 20, 1987, 150 SCRA 59).

In their third assignment of error, petitioners submit that they have not incurred laches in seeking the return of the property; that after their discovery of the issuance of TCT No. 7545 in the name of respondent Calimbas in 1973, they took immediate steps to vindicate their rights on the said lot.

Concerning this matter, the respondent appellate court said otherwise. It found from the records that petitioner Salomon went home every year to Pilar Bataan since 1953 and visited Felisa Calimbas in the latter's house on the lot. It likewise held that in the case of petitioner Abraham Gatdula, the latter admitted that from time to time he went to the municipal building which is near Calimbas house. From these facts, the appellate court concluded that it is improbable that petitioners could not have noticed the house of strong materials built on the questioned lot during the period of time from 1953 up to 1976 when petitioners filed their action.

We disagree. The facts cited above do not sufficiently prove laches on the part of petitioners. Laches, in a general sense, means the failure or neglect, for an unreasonable and unexplained length of time, to do that, which, by exercising due diligence, could or should have done earlier. It is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned or declined to assert it (*Chung Ka Bio, et al. v. IAC*, G.R. 71837, July 26, 1988).

What the records clearly show is that petitioner Francisca Salomon admitted that she went to the municipality of

Pilar once or twice from 1953 and 1972 to attend fiestas (TSN, Francisca Salomon, May 28, 1975). This, however, does not establish in any manner, that she had in fact, actually seen the construction of the house by respondent Calimbas during the said period. Likewise, although co-petitioner Abraham Gatdula often went to the municipal building in Pilar, he could not see the house of respondent Calimbas because it was partly hidden from view, and that he could not establish the exact year when he first noticed the new house during the period between 1952 and 1972 (TSN, Abraham Gatdula, July 2, 1975). Records show that when petitioners discovered in 1972 the cancellation of title in their names, they immediately took steps to protect their rights to the land, by: 1) the filing of an adverse claim with the Register of Deeds of Bataan on June 21, 1973; 2) submission of copies of the deed of extrajudicial partition and sale to the PC Crime Laboratory at Camp Crame for examination and analysis of the signatures appearing thereon; 3) the filing of an administrative case with the Supreme Court against respondent Judge Froilan Blanco wherein We found the latter guilty as charged; and 4) the filing of Civil Case No. 3861 against respondents for nullification of title issued in the name of respondent Calimbas. The diligence of petitioners as shown above in pursuing their interests cannot be gainsaid. Further, the length of time which had elapsed from the date of transfer of title in 1958 up to the time the complaint was filed in 1974, which amounted to sixteen (16) years, is not too unreasonable to permit the assertion and enforcement of petitioners' rights to their land, taking into account the imprescriptibility of the action herein and the distance of the disputed lot in Bataan from the places of residence of petitioners especially that of Salomon.

Finally, in view of the foregoing discussion, We find that the award of attorney's fees and expenses of litigation by the respondent appellate court in favor of respondents as against petitioners is unjustified and has no legal basis. Clearly, the case filed by the petitioners is not an unfounded civil action but on the contrary, a legal course of action to vindicate their rights to the land.

ACCORDINGLY, the petition is GRANTED. The decision of the Intermediate Appellate Court (now Court of Appeals) dated January 8, 1985 is hereby reversed, and the decision of the Court of First Instance (now Regional Trial Court) dated March 5, 1981 in Civil Case No. 3861 is reinstated.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Grino-Aquino, JJ., concur.

Gancayco, J., on leave.

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