FEDERICO O. BORROMEO, LOURDES O. BORROMEO AND FEDERICO O. BORROMEO, INC, PETITIONERS VS. AMANCIO SUN AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 75908. October 22, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a Petition for review on Certiorari under Rule 45 of the Revised Rules of Court seeking to set aside the Resolution of the then Intermediate Appellate Court[1] , dated March 13, 1986, in AC-G.R. CV NO. 67988, which reversed its earlier Decision dated February 12, 1985, setting aside the Decision of the former Court of the First Instance of Rizal, Branch X, in Civil Case No. 19466.

The antecedent facts are as follows:

Private respondent Amancio Sun brought before the then Court of the First Instance of Rizal, Branch X, an action against Lourdes O. Borromeo (in her capacity as corporate secretary), Federico O. Borromeo and Federico O. Borromeo (F.O.B.), Inc., to compel the transfer to his name in the books of F.O.B., Inc., 23,223 shares of stock registered in the name of Federico O. Borromeo, as evidenced by a Deed of Assignment dated January 16, 1974.

Private respondent averred[2] that all the shares of stock of F.O.B. Inc. registered in the name of Federico O. Borromeo belong to him, as the said shares were placed in the name of Federico O. Borromeo 'only to give the latter personality and importance in the business world.'[3] According to the private respondent, on January 16, 1974 Federico O. Borromeo executed in his favor a Deed of Assignment with respect to the said 23,223 shares of stock.

On the other hand, petitioner Federico O. Borromeo disclaimed any participation in the execution of the Deed of Assignment, theorizing that his supposed signature thereon was forged.

After trial, the lower court of origin came out with a decision declaring the questioned signature on subject Deed of Assignment, dated January 16, 1974, as the genuine signature of Federico O. Borromeo; ratiocinating thus:

> 'After considering the testimonies of the two expert witnesses for the parties and after a careful and judicious study and analysis of the questioned signature as compared to the standard signatures, the Court is not in a position to declare that the questioned signature in Exh. A is a forgery. On the other hand, the Court is of the opinion that the questioned signature is the real signature of Federico O. Borromeo between the years 1954 to 1957 but definitely is not his signature in 1974 for by then he has changed his signature. Consequently, to the mind of the Court Exhibit A was signed by defendant Federico O. Borromeo between the years 1954 to 1957 although the words in the blank were filled at a much later date.'[4]

On appeal by petitioners, the Court of Appeals adjudged as forgery the controverted signature of Federico O. Borromeo; disposing as follows:

> 'WHEREFORE, the judgment of the Court a quo as to the second cause of action dated March 12, 1980 is

hereby reversed and set aside and a new judgment is hereby rendered:

1. Ordering the dismissal of the complaint as to defendant-appellants;

2. Ordering plaintiff-appellee on appellants' counterclaim to pay the latter:

a) P 20,000.00 as moral damages;

b) P 10,000.00 as exemplary damages;

c) P 10,000.00 as attorney's fees.

3. Ordering plaintiff-appellee to pay the costs.'[5]

On March 29, 1985, Amancio Sun interposed a motion for reconsideration of the said decision, contending that Segundo Tabayoyong, petitioners' expert witness, is not a credible witness as found and concluded in the following disposition by this Court in Cesar vs. Sandigan Bayan[6] :

"The testimony of Mr. Segundo Tabayoyong on March 5, 1980, part of which is cited on pages 19-23 of the petition, shows admissions which are summarized by the petitioner as follows:

'He never finished any degree in Criminology. Neither did he obtain any degree in physics or chemistry. He was a mere trainee in the NBI laboratory. He said he had gone abroad only once-to Argentina which, according to him 'is the only one country in the world that gives this degree (?) ... 'People go there where they obtain this sort of degree (?) where they are authorized to practice (sic) examination of questioned documents.'

'His civil service eligibility was second grade (general clerical). His present position had to be 're-classified' 'confidential' in order to qualify him to it. He never passed any Board Examination.

'He has never authored any book on the subject on which he claimed to be an 'expert.' Well, he did 'write' a so-called pamphlet pretentiously called 'Fundamentals of Questioned Documents Examination and Forgery Detection.' In that pamphlet, he mentioned some references' – (some) are Americans and one I think is a British, sir, like in the case of Dr. Wilson Harrison, a British' (he repeated with emphasis). Many of the 'theories' contained in his pamphlet were lifted body and soul from those references, one of them being Albert Osborn. His pamphlet has neither quotations nor footnotes, although he was too aware of the crime committed by many an author called 'plagiarism.' But that did not deter him, nor bother him in the least. 'He has never been a member of any professional organization of experts in his supposed field of expertise, because he said there is none locally. Neither is he on an international level.'[7]

Acting on the aforesaid motion for reconsideration, the Court of Appeals reconsidered its decision of February 12, 1985 aforementioned. Thereafter, the parties agreed to have subject Deed of Assignment examined by the Philippine Constabulary (PC) Crime Laboratory, which submitted a Report on January 9, 1986, the pertinent portion of which, stated:

'1. Comparative examination and analysis of the questioned and the standard signature reveal significant similarities in the freedom of movement, good quality of lines, skills and individual handwriting characteristics.

2. By process of interpolation the questioned signature fits in and can be bracketed in time with the standard signatures written in the years between 1956 to 1959. Microscopic examination of the ink used in the questioned signature and the standard signature in document dated 30 July 1959 marked Exh. 'E' indicate gallotanic ink.'

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'1. The questioned signature FEDERICO O. BORROMEO marked 'Q' appearing in the original Deed of Assignment dated 16 January 1974 and the submitted standard signatures of Federico O. Borromeo marked 'S-1' to 'S-49' inclusive were written BY ONE AND THE SAME PERSON.

2. The questioned signature FEDERICO O. BORROMEO marked 'Q' COULD HAVE BEEN SIGNED IN THE YEARS BETWEEN 1950-1957.'[8]

After hearing the arguments the lawyers of record advanced on the said "Report" of the PC Crime Laboratory, the Court of Appeals resolved:

" x x x

1) to ADMIT the Report dated Jan. 9, 1986 of the PC Crime Laboratory on the Deed of Assignment in evidence, without prejudice to the parties' assailing the credibility of said Report;

2) to GIVE both parties a non-extendible period of FIVE (5) DAYS from February 27, 1986, within which to file simultaneous memoranda.'[9]

On March 13, 1986, the Court of Appeals reversed its decision of February 12, 1985, which affirmed in toto the decision of the trial court of origin; resolving thus:

"WHEREFORE, finding the Motion for Reconsideration meritorious, We hereby set aside our Decision, dated February 12, 1985 and in its stead a new judgment is hereby rendered affirming in toto the decision of the trial Court, dated March 12, 1980, without pronouncement as to costs.

SO ORDERED."[[10]]

Therefrom, petitioners found their way to this court via the present Petition; theorizing that:

I.

THE RESPONDENT COURT ERRED IN HOLDING THAT WHEN PETITIONER AGREED TO THE SUGGESTION OF RESPONDENT COURT TO HAVE THE QUESTIONED DOCUMENT EXAMINED BY THE PC CRIME LABORATORY THEY COULD NO LONGER QUESTION THE COMPETENCY OF THE DOCUMENT.

II

THE COURT OF APPEALS ERRED IN HOLDING THAT THE QUESTIONED DOCUMENT WAS SIGNED IN 1954 BUT WAS DATED IN 1974.

III

THE COURT OF APPEALS ERRED IN HOLDING THAT THE SIGNATURE OF FEDERICO O. BORROMEO IN THE DEED OF ASSIGNMENT (EXHIBIT "A") IS A GENUINE SIGNATURE CIRCA 1954-1957.

The Petition is barren of merit.

Well-settled is the rule that "factual finding of the Court of Appeals are conclusive on the parties and not reviewable by the Supreme Court – and they carry even more weight when the Court of Appeals affirms the factual findings of the trial court." [11]

In the present case, the trial court found that the signature in question is the genuine signature of Federico O.

Borromeo between the years 1954 to 1957 although the words in the blank space of the document in question were written on a much later date. The same conclusion was arrived at by the Court of Appeals on the basis of the Report of the PC crime Laboratory corroborating the findings of Col. Jose Fernandez that the signature under controversy is genuine.

It is significant to note that Mr. Tabayoyong, petitioners' expert witness, limited his comparison of the questioned signature with the 1974 standard signature of Federico O. Borromeo. No comparison of the subject signature with the 1950 - 1957 standard signature was ever made by Mr. Tabayoyong despite his awareness that the expert witness of private respondent, Col. Jose Fernandez, made a comparison of said signatures and notwithstanding his (Tabayoyong's) access to such signatures as they were all submitted to the lower Court. As correctly ratiocinated[12] by the Court of origin, the only conceivable reason why Mr. Tabayoyong avoided making such a comparison must have been, that even to the naked eye, the questioned signature affixed to the Deed of Assignment, dated January 16, 1974, is strikingly similar to the 1950 to 1954 standard signature of Federico O. Borromeo, such that if a comparison thereof was made by Mr. Tabayoyong, he would have found the questioned signature genuine.

That the Deed of Assignment is dated January 16, 1974 while the questioned signature was found to be circa 1954-1957, and not that of 1974, is of no moment. It does not necessarily mean, that the deed is a forgery. Pertinent records reveal that the subject Deed of Assignment is embodied in a blank form for the assignment of shares with authority to transfer such shares in the books of the corporation. It was clearly intended to be signed in blank to facilitate the assignment of shares from one person to another at any future time. This is similar to Section 14 of the Negotiable Instruments Law where the blanks may be filled up by the holder, the signing in blank being with the assumed authority to do so. Indeed, as the shares were registered in the name of Federico O. Borromeo just to give him personality and standing in the business community, private respondent had to have a counter evidence of ownership of the shares involve. Thus the execution of the deed of assignment in blank, to be filled up whenever needed. The same explains the discrepancy between the date of the deed of assignment and the date when the signature was affixed thereto.

While it is true that the 1974 standard signature of Federico O. Borromeo is to the naked eye dissimilar to his questioned signature circa 1954-1957, which could have been caused by sheer lapse of time, Col. Jose Fernandez, respondent's expert witness, found the said signatures similar to each other after subjecting the same to stereomicroscopic examination and analysis because the intrinsic and natural characteristic of Federico O. Borromeo's handwriting were present in all the exemplar signatures used by both Segundo Tabayoyong and Col. Jose Fernandez.

It is therefore beyond cavil that the findings of the Court of origin affirmed by the Court of Appeals on the basis of the corroborative findings of the Philippine Constabulary Crime Laboratory confirmed the genuineness of the signature of Federico O. Borromeo in the Deed of Assignment dated January 16, 1974.

Petitioners, however, question the "Report" of the document examiner on the ground that they were not given an opportunity to cross-examine the Philippine Constabulary document examiner; arguing that they never waived their right to question the competency of the examiner concerned. While the Court finds merit in the contention of petitioners, that they did not actually waived their right to cross-examine on any aspect of subject Report of the Philippine Constabulary Crime Laboratory, the Court discerns no proper basis for deviating from the findings of the Court of Appeals on the matter. It is worthy to stress that courts may place whatever weight due on the testimony of an expert witness.[13] Conformably, in giving credence and probative value to the said "Report" of the Philippine Constabulary Crime Laboratory, corroborating the findings of the trial Court, the Court of Appeals merely exercised its discretion. There being no grave abuse in the exercise of such judicial discretion, the findings

by the Court of Appeals should not be disturbed on appeal.

Premises studiedly considered, the Court is of the irresistible conclusion, and so holds, that the respondent court erred not in affirming the decision of the Regional Trial Court a quo in Civil Case No. 19466.

WHEREFORE, the Petition is DISMISSED for lack of merit and the assailed Resolution, dated March 13, 1986, AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

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[1] Composed of Associate Justices Eduardo P. Caguioa (Ponente), Ramon G. Gaviola, Jr., Ma. Rosario Quetolio-Losa, and Leonor Ines-Luciano.

[2] Complaint, par. 11 as cited in the Petition, Rollo, p. 11-12.

[3] Ibid.

[4] Resolution, Annex “A”, Rollo, p. 31.

[5] Petition, Rollo, p. 12.

[6] 134 SCRA 105 [January 17, 1985]

[7] Ibid., p. 132-133.

[8] Resolution, Rollo, p. 43.

[9] Resolution, Rollo, p. 42.

[10] Resolution, Rollo, p. 45.

[11] Meneses vs. Court of Appeals 246 SCRA 162, p. 171[1995]citing: Coca-Cola Bottlers Phil., Inc. vs. Court of Appeals 229 SCRA 533 and Binalay vs. Manalo, 195 SCRA 374.

[12] Resolution, Rollo, p. 40.

[13] Francisco, Vicente J., Evidence, 1997 edition, vol. 7, part I, p. 663; citing: 20 Am. Jur. 1060.

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