

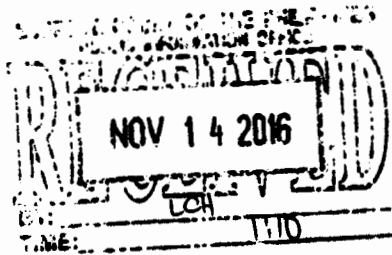


Republic of the Philippines
Supreme Court
Manila

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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

NOV 10 2016



THIRD DIVISION

GLORIA ZOLETA-SAN
AGUSTIN,

G.R. No. 189289

Petitioner, Present:

VELASCO, JR., J.,
Chairperson,

PERALTA,

PEREZ,

REYES, and

JARDELEZA, JJ.

- versus -

Promulgated:

ERNESTO SALES,

Respondent.

August 31, 2016

X-----*Wilfredo V. Lapitan*-----X

DECISION

REYES, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the 1997 Rules of Civil Procedure filed by Gloria Zoleta-San Agustin (petitioner) assails the Decision² dated May 29, 2009 and the Resolution³ dated August 25, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 90302.

¹ Rollo, pp. 10-52.

² Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Vicente S.E. Veloso and Estela M. Perlas-Bernabe (now a Member of this Court) concurring; id. at 54-66.

³ Id. at 68-68A.

Factual Antecedents

On March 14, 1994, brothers Teodoro Sales (Teodoro) (now deceased) and Ernesto Sales (Ernesto) (collectively, the plaintiffs) filed an action for the judicial approval of their recognition as the illegitimate children of the late Louis C. Fernandez (Louis) before the Regional Trial Court (RTC) of Quezon City, docketed as Civil Case No. Q-94-19781 and raffled to Branch 110.⁴ Subsequently, an Amended Complaint was filed on March 13, 1996, before the RTC of Quezon City, Branch 225, where it was alleged that Ernesto and Teodoro were born in Pasay City on March 20, 1948 and October 22, 1943, respectively. They are the illegitimate children of Louis and his common-law wife named Epitacia Sales (Epitacia) who was a house helper in the Fernandez household. Louis⁵ and his legal wife, Marie Louise Fernandez (Marie Louise)⁶ (Spouses Fernandez), a French national, did not have any child. According to the plaintiffs, Louis formally recognized them as his children by Epitacia in two public documents bearing his thumb marks, *viz*: (1) a notarized document dated November 11, 1980 jointly executed by Louis and Epitacia formally recognizing the plaintiffs as their children; and (2) a document solely executed by Louis on December 2, 1980, dominated as Acknowledgement of Children.⁷

The plaintiffs, having no knowledge of any relatives of Spouses Fernandez, directed the action against unknown defendants. However, on May 30, 1994, the petitioner raised her opposition. She alleged in her Amended Answer filed on July 26, 1994 that she is the niece of Louis and that the Spouses Fernandez informally adopted her as their child when she was only 2 years old. She insisted that the father of the plaintiffs is Corpus Micabalo (Corpus), the former houseboy of the Fernandez household.⁸

One of the principal allegations in the amended answer of the petitioner is that the documents presented by the plaintiffs to sustain the complaint were spurious. These documents of recognition were forwarded by the RTC to the National Bureau of Investigation (NBI) for examination. Bayani Palad (Palad), a Fingerprint Examiner of the NBI, compared the thumbprint of Louis on the documents of recognition with the other documents containing his thumb marks. Thereafter, Palad concluded that all the thumbprints in the disputed documents belong to Louis.⁹

⁴ Id. at 18 and 463.

⁵ Died on January 1, 1987.

⁶ Died on October 23, 1983.

⁷ *Rollo*, pp. 157-158.

⁸ Id. at 158 and 464.

⁹ Id. at 159-160.

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On February 17, 2001, the petitioner filed a motion to allow deoxyribonucleic acid (DNA) Testing on Louis who already died on January 1, 1987. The RTC, in its Resolution dated June 4, 2001, denied the petitioner's motion. Subsequently, the presentation of evidence proceeded.¹⁰

On April 15, 2002, the RTC issued an order denying the admission of the photographs presented by the petitioner seeking to prove that she was treated by the Spouses Fernandez as their own child. The petitioner filed a motion for reconsideration of the said order of denial, but it was denied by the RTC on July 10, 2002.¹¹ Thereafter, the petitioner filed a Petition for *Certiorari* and Prohibition before the CA ascribing grave abuse of discretion amounting to lack or excess of jurisdiction against the RTC judge for declaring the photographs irrelevant and immaterial to the issue of recognition submitted before the RTC. In a Decision¹² dated September 29, 2003, the CA denied the petition for lack of merit. It ruled that even if the photographs were admitted, they remained to be immaterial and irrelevant to the issue of recognition of the plaintiffs as the illegitimate children of Louis.¹³

Teodoro died on July 23, 1997 and was substituted by his mother Epitacia who subsequently died on March 19, 2004 leaving Ernesto the lone respondent in the present case.

Ruling of the RTC

After trial on the merits, the RTC in a Decision¹⁴ dated July 12, 2007 ruled in favor of the recognition of the plaintiffs as the illegitimate children of Louis. The dispositive portion reads as follows:

WHEREFORE, premises considered, the Court hereby **GRANTS** plaintiffs' prayer for judicial approval of the recognition made by [Louis] during his lifetime. Accordingly, [Ernesto] and [Teodoro] (deceased) are hereby declared the illegitimate children of the deceased [Louis] with the appurtenant rights of illegitimate children under the law.

SO ORDERED.¹⁵

¹⁰ Id. at 465.

¹¹ Id.

¹² Penned by Associate Justice Eliezer R. De Los Santos, with Associate Justices B. A. Adefuin-De La Cruz and Jose C. Mendoza (now a Member of this Court) concurring; id. at 463-468.

¹³ Id. at 467.

¹⁴ Rendered by Presiding Judge Maria Elisa Sempio Dy; id. at 157-174.

¹⁵ Id. at 174.

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The petitioner elevated the adverse judgment of the RTC before the CA. The parties filed their respective briefs. The petitioner filed her Reply Brief (with Application for DNA Testing of Louis).¹⁶ Ernesto filed his Comment¹⁷ objecting to the proposed DNA Testing. In a Resolution¹⁸ dated February 10, 2009, the CA deferred its determination of the petitioner's application for DNA Testing.

Ruling of the CA

In a Decision¹⁹ dated May 29, 2009, the CA found the appeal devoid of merit. The CA gave due weight to the deeds of acknowledgment executed by Louis. The self-serving denial of the petitioner did not prevail over the presumption of regularity accorded to the deeds of recognition in favor of the plaintiffs. Quoted hereunder is the dispositive portion of the decision of the CA, to wit:

WHEREFORE, the appeal is **DISMISSED** and the *Decision* dated 12 July 2007 of the [RTC], Branch 225, Quezon City in Civil Case No. Q-94-19781, is **AFFIRMED** *in toto*.

SO ORDERED.²⁰

On June 22, 2009, the petitioner filed a Motion for Reconsideration²¹ contending that the CA failed to act on her application for DNA Testing despite its previous Resolution on February 10, 2009 that it would treat the same as one of the assigned errors in the appeal. The CA denied the motion for reconsideration in a Resolution²² dated August 25, 2009.

The Issues

Undaunted, the petitioner urges the allowance of her Petition for Review on *Certiorari* enumerating the following as errors committed by the CA:

¹⁶ Id. at 175-193.

¹⁷ Id. at 194-205.

¹⁸ Penned by Associate Justice Noel G. Tijam, with Associate Justices Conrado M. Vasquez, Jr. and Seseinando E. Villon concurring; id. at 207-208.

¹⁹ Id. at 54-66.

²⁰ Id. at 65-66.

²¹ Id. at 69-82.

²² Id. at 68-68A.

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I.

THE CA GROSSLY MISAPPREHENDED THE FACTS AND MANIFESTLY IGNORED THE UNDISPUTED AND OVERWHELMING EVIDENCE PRESENTED BY THE PETITIONER WHICH, IF PROPERLY CONSIDERED, WOULD HAVE JUSTIFIED A DIFFERENT CONCLUSION.

A. The CA gravely erred in giving weight and credence to the two “notarized” documents submitted by Ernesto despite the petitioner’s overwhelming contrary documentary evidence.

B. The CA gravely erred in giving credence to the testimony of Ernesto’s so-called expert witness.

II.

THE CA ARBITRARILY REFUSED AND/OR FAILED TO RULE ON THE PETITIONER’S APPLICATION FOR DNA TESTING DESPITE ITS EARLIER PRONOUNCEMENT THAT IT WILL RESOLVE THE SAME AS AN ASSIGNED ERROR.

A. The CA’s failure to act on the petitioner’s Application for DNA Testing is a substantial departure from this Honorable Court’s decisions favoring DNA Testing. Moreover, it is contrary to the CA’s very own Resolution dated February 10, 2009 wherein it undertook to resolve the petitioner’s application in the resolution of the main appeal. The exercise of the Court’s power of review and supervision is, thus, proper and necessary under the circumstances.²³

Ruling of the Court

The Court denies the instant petition and upholds the assailed decision and resolution of the CA.

²³ Id. at 27.

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The petitioner calls for the relaxation of the general rule that only questions of law may be raised in a petition for review on *certiorari*. It is a well-settled principle that the findings of fact of the CA especially those upholding the trial court are final and conclusive and cannot be reviewed on appeal to the Supreme Court. The following are the recognized exceptions to the said rule:

(a) when the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (b) when the inference made is manifestly mistaken, absurd or impossible; (c) when there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the findings of fact are conflicting; (f) when the [CA], in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (g) where the [CA] manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (h) where the findings of fact of the [CA] are contrary to those of the trial court, or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the [CA] are premised on absence of evidence but are contradicted by the evidence on record. x x x.²⁴
(Citation omitted)

None of these enumerated exceptions exists in the case at bar. Nonetheless, the Court will take up the petitioner's other assignment of errors to the extent that they touch upon legal issues and in order to support the Court's ruling that the RTC and CA's factual findings are sufficiently justified by evidence and jurisprudence.

At the center of the present controversy are the documents executed by Louis evidencing his voluntary recognition of Teodoro and Ernesto as his illegitimate children. The petitioner, in an effort to oppose the judicial approval of Teodoro and Ernesto's status as illegitimate children, mainly argued that the subject documents are spurious. The legitimate filiation of a child may be established by any of the following:

- (1) The record of birth appearing in the civil register or a final judgment; or
- (2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

²⁴ *Republic of the Philippines v. Hon. Mangotara, et al.*, 638 Phil. 353, 421-422 (2010).

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- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws.²⁵

These requirements likewise apply to establish the filiation of illegitimate children.²⁶ In order to cast doubt as to the authenticity of the documentary evidence presented by Ernesto, the petitioner purported that the circumstances surrounding the execution and notarization of the said documents are highly suspicious thereby warranting the overturn of the presumption of regularity in favor of these documents. The petitioner claimed that during the execution and notarization of the documents, Louis could still write, rendering incredible the mere affixing of his thumbprints to the contested documents.²⁷ However, Ernesto testified before the RTC that Louis was no longer capable of writing his name as he was already blind and bedridden at the time he affixed his thumb mark to the document dated November 11, 1980. The witnesses to the document were Margarita Almeda, the hairdresser of Louis' sister, and Romeo Gadones, Teodoro's acquaintance.²⁸ A thumb mark has been repeatedly considered as a valid mode of signature. The Court, in the case of *Dr. Yason v. Arciaga*,²⁹ held that a signature may be made by a person's cross or mark.³⁰

There being no cogent reason to deviate from the conclusion of the RTC finding the testimony of Ernesto worthy of belief, the Court adopts such testimony and considers it against the contention of the petitioner. It is settled in a catena of cases that the findings of fact of trial courts are given weight on appeal because they are in a better position to examine the real evidence, and observe the demeanor of the witnesses and therefore discern whether they are telling the truth.³¹

The other inconsistencies cited by the petitioner are of no importance and insufficient to overcome the presumption of regularity in favor of the notarized documents. A notarized document is a public document and as such it enjoys the presumption of regularity which can only be overthrown by clear and convincing evidence.³² It serves as a *prima facie* evidence of the truth of the facts stated therein and a conclusive

²⁵ FAMILY CODE OF THE PHILIPPINES, Title IV (Paternity and Filiation), Chapter 2 (Proof of Filiation), Article 172.

²⁶ FAMILY CODE OF THE PHILIPPINES, Title IV (Paternity and Filiation), Chapter 3 (Illegitimate Children), Article 175.

²⁷ *Rollo*, p. 59.

²⁸ *Id.* at 58.

²⁹ 490 Phil. 338 (2005).

³⁰ *Id.* at 351.

³¹ *Castillo v. CA*, 329 Phil. 150, 160 (1996), citing *People v. Cabalhin*, 301 Phil. 494, 504 (1994).

³² *Heirs of Spouses Arcilla v. Teodoro*, 583 Phil. 540, 560 (2008).

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presumption of its existence and due execution.³³ The bare allegations of the petitioner cannot qualify as clear and convincing evidence to overturn such presumption.

The petitioner maintained that the real father of Teodoro and Ernesto is Corpus. She presented various evidence like school report card and death certificate wherein Teodoro's surname followed that of Corpus. The use of Corpus' surname by Teodoro does not in itself negate the illegitimate filiation of Teodoro and Ernesto. As correctly observed by the CA, Louis' existing marriage to Marie Louise must have prevented him from making any declaration that would have exposed his relationship with Epitacia. The use of Louis' surname by his children during the lifetime of Marie Louise would run counter to his intention to cover such relationship. It is no less than the putative father who voluntarily recognized that Teodoro and Ernesto are his illegitimate children. It is emphatically underscored that it is the law and only the law that determines who are the legitimate or illegitimate children for one's legitimacy or illegitimacy cannot ever be compromised.³⁴

All told, the authenticity of the documents of recognition executed by Louis which is the core of the present controversy, as well as the credibility of the expert witness in the person of Palad, are questions of fact for they involve the examination of the probative value of the evidence presented by the litigants. There exists a question of law when the doubt arises as to what the law is pertaining to a certain state of facts while a question of fact concerns itself with the truth or falsity of the alleged facts.³⁵ To reiterate, a petition for review on *certiorari* covers only questions of law.

The petitioner sought the conduct of DNA Testing to resolve the issue of paternity. However, the RTC already arrived at a definitive conclusion that Teodoro and Ernesto are the illegitimate children of the deceased Louis rendering the petitioner's request for DNA Testing immaterial.

WHEREFORE, premises considered, there being no reversible error committed by the Court of Appeals, the petition is **DENIED**. The Decision dated May 29, 2009 and the Resolution dated August 25, 2009 of the Court of Appeals in CA-G.R. CV No. 90302 are hereby **AFFIRMED**.

³³ *Chua v. Westmont Bank, et al.*, 683 Phil. 56, 66 (2012).

³⁴ *Concepcion v. CA*, 505 Phil. 529, 537 (2005).

³⁵ *Sps. Bernales v. Heirs of Julian Sambaan*, 624 Phil. 88, 97 (2010).

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SO ORDERED.

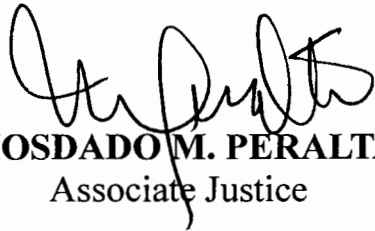


BIENVENIDO L. REYES
Associate Justice

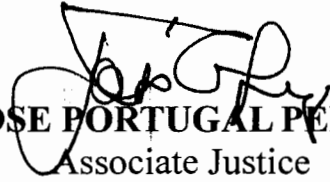
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



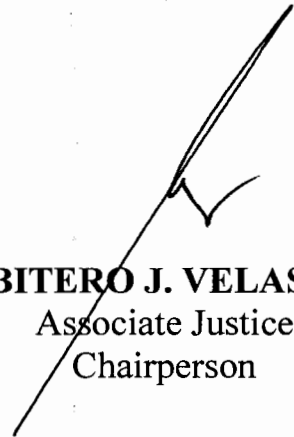
JOSE PORTUGAL PEREZ
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

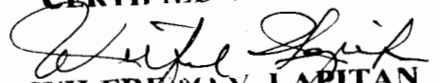
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

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