



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

GENEROSO SEPE,
Petitioner,

G.R. No. 199766

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,*
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

HEIRS OF ANASTACIA* KILANG,
rep. by her children **MARIA,**
DONATA, FELICIANA, DOMINGA
and **SEVERO** all surnamed
SOLIJON,

Promulgated:

Respondents.

10 APR 2019

[Signature]

x-----x

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court (Rules) assailing the Decision² dated August 4, 2010 (Decision) of the Court of Appeals³ in C.A.-G.R. C.V. No. 01786, granting respondents' appeal, and the CA⁴ Resolution⁵ dated October 27, 2011, denying petitioner's motion for reconsideration. The CA Decision reversed and set aside the Order⁶ dated August 7, 2006, dismissing the case, and the Order⁷ dated September 14, 2006, denying respondents' motion for reconsideration, of the Regional Trial Court, Branch 3, City of Tagbilaran (RTC) in Civil Case No. 6703.

* Also referred to as "Anastasia" in some parts of the records.

* On leave.

¹ *Rollo*, pp. 48-96, excluding Annexes.

² *Id.* at 98-115. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Portia A. Hormachuelos and Socorro B. Inting concurring.

³ Eighteenth Division.

⁴ Nineteenth Division.

⁵ *Rollo*, p. 130. Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Ramon Paul L. Hernando (now a member of this Court) and Victoria Isabel A. Paredes concurring.

⁶ *Id.* at 158-161. Penned by Presiding Judge Venancio J. Amila.

⁷ *Id.* at 168.

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The Facts and Antecedent Proceedings

In a complaint instituted on May 16, 2002, respondents Heirs of Anastacia Kilang, represented by her children Maria, Donata, Feliciano, Dominga and Severo Solijon (respondents), sought the nullification of: (1) Deed of Sale of a Registered Land⁸ dated November 18, 1992 (DOS) executed by Anastacia Kilang (Anastacia) with marital consent of Fabian Solijon (Fabian) in favor of spouses Generoso Sepe (Generoso or petitioner) and Gaudencia D. Sepe (spouses Sepe); (2) Confirmation of Sale⁹ dated December 17, 1992 (COS) executed by respondents, except Dominga; and (3) Transfer Certificate of Title No. (TCT) T-35367¹⁰ registered in the names of spouses Sepe; and for recovery of title, possession with damages.¹¹

The complaint alleged that the late Anastacia, who was then an 84-year old, illiterate, rheumatic and bedridden mother, agreed to the offer of petitioner to undertake the subdivision of her land in Cabawan¹² District, Tagbilaran City under TCT T-10069¹³ in consideration for one lot in the subdivision and a first preference to buy any portion that might be for sale; but taking advantage of the ignorance of respondents' family, petitioner managed to have the DOS executed and misled Feliciano and Donata into believing that the document was the instrument of subdivision.¹⁴

By the DOS, which was executed and notarized on November 18, 1992, Anastacia, with her husband's consent, purportedly sold her paraphernal property — a lot located at Barrio Gaboc, Tagbilaran City with an area of 18,163 square meters (subject lot) and covered by TCT T-10069 — to spouses Sepe for ₱15,000.00.¹⁵

On December 14, 1992, Anastacia executed a notarized Notice of Adverse Claim, wherein she claimed that “the second duplicate copy of [TCT T-10069] was lost sometimes (*sic*) on the first week of December 1992, and [was] found in the possession of one Generoso Sepe x x x without the knowledge and consent of the owner”¹⁶ and the “parcel of land was never sold nor encumbered to anybody else.”¹⁷

On December 17, 1992, respondents, save Dominga, executed the COS for a consideration of P40,000.00, wherein they confirmed absolutely and irrevocably the sale of the subject lot situated at Barrio Gaboc (now Cabawan District) made and executed by their parents, Anastacia and

⁸ Id. at 144.

⁹ Id. at 153.

¹⁰ Id. at 142.

¹¹ Id. at 99.

¹² Also spelled as “Kabawan” and “Cabauan” in some parts of the records.

¹³ *Rollo*, p. 143.

¹⁴ Id. at 145.

¹⁵ Id. at 144, 158.

¹⁶ Id. at 151.

¹⁷ Id.

Fabian, in favor of spouses Sepe, and warranted to defend their rights and peaceful possession of the subject lot.¹⁸

On January 14, 1993, Anastacia executed a notarized Notice of Withdrawal of Adverse Claim, wherein she alleged that she was made to sign an Adverse Claim by Dominga and Donata; she did not understand its contents; and she remembered that she had “already sold the same land to [spouses Sepe] on November 18, 1992 before Atty. Gaspar S. Rulona x x x;” the Adverse Claim was an error; and she wanted “the same withdrawn, so that the DEED OF SALE OF THE LAND COVERING TCT NO. T-10069, [would push] through, and the title so issued in favor of the [vendees spouses Sepe].”¹⁹

On the same day, January 14, 1993, TCT T-10069 in the name of Anastacia was cancelled and TCT T-35367 was issued in the names of spouses Sepe.²⁰

On October 20, 1993, Anastacia died.²¹

On November 17, 1998, Maria wrote the Regional Director of the National Bureau of Investigation (NBI) seeking assistance relative to this case in a letter of even date. Her statements were taken by the NBI Investigator on August 30, 2000.²²

On December 21, 1998, respondents, represented by Maria, filed a case (Civil Case No. 6703) for nullification of the sale and the TCT issued to petitioner.²³ Respondents failed to prosecute the case for some time resulting in its dismissal without prejudice on February 26, 2002.²⁴

On May 16, 2002, respondents refiled the case by filing the Complaint²⁵ dated March 25, 2002.

Respondents presented their evidence, which included the testimonies of Feliciana, who was then 65 years old; Maria, who was then 63 years old; Julieta Solijon, the wife of Severo; Eufonio Tanupan Bayot, the supply officer of the Tagbilaran City Treasurer’s Office; Remedios Lamoste, Records Officer I, Office of the Tagbilaran City Register of Deeds, who brought to the RTC the records relative to TCT T-10069, which included the said TCT, the DOS, Notice of Adverse Claim, Notice of Withdrawal of Adverse Claim and TCT T-35367; and Rhoda B. Flores, NBI Document Examiner IV and Assistant Chief, Questioned Documents Section, NBI, Manila, who confirmed that the signature of Generoso Sepe appearing on the

¹⁸ Id. at 153.

¹⁹ Id. at 152.

²⁰ Id. at 142.

²¹ Id. at 159.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id. at 145-146.



Notice of Withdrawal of Adverse Claim and Community Tax Certificate No. 9863767²⁶ were written by the same Generoso Sepe whose signature appeared on the standard documents.²⁷

After the RTC admitted respondents' offer of documentary evidence, counsel for petitioner manifested that he was opting to file a demurrer to evidence.²⁸

On July 13, 2006, petitioner filed a Demurrer to Evidence, interposing the grounds of ratification and prescription of action.²⁹ Petitioner argued that if Feliciana's testimony would be given consideration that Anastacia and her family were mistaken into executing the DOS as they were made to believe that it pertained to the subject lot's subdivision, then the action to nullify a voidable contract had prescribed, the four-year prescriptive period being reckoned from January 14, 1993 when the TCT was issued in petitioner's name.³⁰ He also argued that with the execution of the COS, the voidable DOS was ratified.³¹

The RTC Ruling

On August 7, 2006, the RTC issued an Order granting the demurrer to evidence and dismissing the case. The RTC found the claim of respondents to be "inadequate and unworthy of belief [because] not only that their claim was only oral[,] which is insufficient as against the documentary evidence in favor of petitioner [that] are duly notarized, thus, considered as public instruments and having the presumption of regularity under the Rules rendering their claim incredible, not to say, that it is contrary to the usual course of things."³²

The RTC further stated that if there was fraud in the sale of the subject lot, the action to annul the sale on the ground of fraud had prescribed. According to the RTC, the four-year period was to be reckoned from the discovery of the fraud on December 14, 1992 when Anastacia executed the Notice of Adverse Claim, and it had lapsed when respondents filed Civil Case No. 6703 on December 21, 1998 or six years after.³³

The dispositive portion of the RTC Decision states:

WHEREFORE, the instant case is dismissed with costs against plaintiffs [herein respondents] and reasonable attorney's fee in the amount of P10,000.00 which shall earn legal interest until the same shall have been fully paid.

²⁶ Also 9663767 in some parts of the *rollo*.

²⁷ See *rollo*, pp. 102-105.

²⁸ *Id.* at 106.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 159-160.

³³ *Id.* at 161.



SO ORDERED.³⁴

Respondents filed a motion for reconsideration, but the RTC, in its Order dated September 14, 2006, denied the same.³⁵

Aggrieved, respondents interposed an appeal before the CA.³⁶

The CA Ruling

The CA granted respondents' appeal. The CA ruled that the testimonies of Anastacia's daughters had established that no consideration whatsoever was paid to their mother.³⁷ Also, according to the CA, respondents were able to establish that the withdrawal of the adverse claim was not done by Anastacia but through the illegal machinations of petitioner. The CA further theorized that petitioner would not exert effort to cause the execution of the COS if he had validly purchased the subject lot.³⁸ Since there was actually no consideration of the sale to petitioner and following the principle that a deed of sale in which the stated consideration has not in fact been paid is a false contract, the CA concluded that the DOS is void.³⁹

The CA awarded moral and exemplary damages in favor of respondents based on its finding that there was no good faith in the manner that petitioner acquired the property of Anastacia because he took advantage of the ignorance of Anastacia and her children by making them believe that the DOS referred to a partition or subdivision of the subject lot.⁴⁰ The CA observed that the method employed by petitioner smacked of bad faith which ran counter to Articles 19⁴¹ and 21⁴² of the Civil Code.⁴³

The CA likewise awarded attorney's fees because respondents were compelled to litigate or to incur expenses to protect their interest as a result of the unjustified act of petitioner.⁴⁴

The dispositive portion of the CA Decision reads as follows:

IN LIGHT OF ALL THE FOREGOING, this appeal is **GRANTED**. The 7 August 2006 Order dismissing the case and the 14 September 2006 Order denying the Motion for Reconsideration both issued by the Regional Trial Court, Branch 3, City of Tagbilaran in Civil

³⁴ Id.

³⁵ Id. at 168.

³⁶ Id. at 169-170.

³⁷ Id. at 110.

³⁸ Id. at 111.

³⁹ Id.

⁴⁰ Id. at 113.

⁴¹ ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

⁴² ART. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

⁴³ *Rollo*, p. 113.

⁴⁴ Id.

Case No. 6703 are **REVERSED and SET ASIDE**. In lieu thereof, a new judgment is hereby rendered as follows:

1. The *Deed of Sale of a Registered Land* dated November 18, 1992 executed by Anastacia Kilang is declared **NULL** and **VOID** and of no effect.

2. TCT No. T-35367 registered in the name of Generoso Sepe pursuant to the aforementioned nullified Deed of Sale is **NULLIFIED** and accordingly **CANCELLED** while TCT No. T-10069 in the name of Anastacia Kilang is **REINSTATED** and the subject property thereof **RESTORED** to herein plaintiffs-appellants [herein respondents]; and

3. Defendant-appellee [herein petitioner] is ordered to pay plaintiffs-appellants [herein respondents] [P]100,000.00 moral damages, [P]50,000.00 exemplary damages and [P]100,000.00 attorney's fees.

Costs against defendant-appellee [herein petitioner].

SO ORDERED.⁴⁵

Petitioner filed a motion for reconsideration, which was denied by the CA in its Resolution dated October 27, 2011.⁴⁶

Hence, the present Petition. Respondents filed a Comment⁴⁷ dated June 15, 2012. Petitioner filed a Reply⁴⁸ dated November 14, 2012.

Issues

The Petition raises the following issues:

Whether the CA erred in its ruling that there was no consideration for the sale;

Whether the CA erred in its finding that the haste by which Anastacia executed the adverse claim on December 14, 1992 meant that she did not sell her property to anybody;

Whether the CA erred in its finding that the withdrawal of the adverse claim was not done by Anastacia but through the illegal machinations of petitioner;

Whether the CA erred in its finding that petitioner took advantage of the ignorance of Anastacia and her children by making them believe that the DOS in favor of petitioner referred to a partition or subdivision of the subject lot; and

⁴⁵ Id. at 114.

⁴⁶ Id. at 130.

⁴⁷ Id. at 210-213.

⁴⁸ Id. at 222-229.



Whether the CA erred in its finding that if petitioner had validly purchased the subject lot, he would not exert effort to cause the execution of the COS.⁴⁹

The Court's Ruling

The Petition is impressed with merit.

The general rule is that only questions of law may be raised in a Rule 45 petition to review.⁵⁰ While the issues propounded by petitioner are seemingly factual, the ultimate issue — whether the 1992 DOS is valid — is both factual and legal. Petitioner is thus asking the Court to re-examine the evidence presented by the parties, which re-examination is warranted since the findings of the CA are contrary to those of the trial court, a recognized exception to the rule that the findings of fact of the CA are conclusive and binding upon the Court.⁵¹

The CA observed that “[w]hat is glaring in the evidence and the records of this case is the fact that there was no discussion or assertion whether or not money or cause or consideration exchange[d] hands between Anastacia Kilang and Generoso Sepe.”⁵² To sustain its finding of lack of consideration, the CA relied on the testimonies of Anastacia’s daughters that no consideration was paid to their mother by petitioner, without, however, indicating the pertinent pages of the relevant transcript of stenographic notes of their testimonies.⁵³ Also, the CA interpreted the execution of the Notice of Adverse Claim by Anastacia and the COS as additional proofs that there was no sale by Anastacia of the subject lot to spouses Sepe.⁵⁴

The RTC, on the other hand, found that:

After a careful perusal of the documentary evidence of plaintiffs, the Court finds their claim to be inadequate and unworthy of belief. For, not only that their claim was only oral which is insufficient as against the documentary evidence in favor of defendant, they are duly notarized, thus, considered as public instruments and having the presumption of regularity under the Rules rendering their claim incredible, not to say, that it is contrary to the usual course of things. For instance, if the Deed of Sale (Exh. “B”) dated November 18, 1992 was really spurious and was discovered on December 14, 1992 by Anastacia Kilang to be so that she executed an Adverse Claim, why is it that on December 17, 1992 or just three days after, four of the five children of Anastacia Kilang executed a Confirmation of the Deed of Sale (Exh. “L”) wherein they acknowledged the receipt of P40,000.00 from defendant Sepe of which its due execution was not refuted by plaintiffs in the witness stand but simply offered by

⁴⁹ Id. at 71-72.

⁵⁰ RULES OF COURT, Rule 45, Sec. 1.

⁵¹ See *Spouses Santos v. Spouses Lumbao*, 548 Phil. 332, 343-344 (2007).

⁵² *Rollo*, p. 109.

⁵³ Id. at 110.

⁵⁴ Id. at 110-111.

counsel as an evidence of defendant's alleged master plan in victimizing innocent people. On August 31, 2000 or eight years thereafter, the same Maria Solijon upon being investigated by the NBI (Exh. "M") admitted that the four of the children of Anastacia Kilang except Dominga, received P5,000.00 each from defendant Generoso Sepe allegedly as Christmas gifts which, in the mind of the Court, is not only a flimsy excuse but an implied admission of their confirmation of the sale. Then, on January 14, 1993, Anastacia Kilang executed a Withdrawal of the Adverse Claim leading to the issuance of a new transfer certificate of title to the defendant. Plaintiffs assailed the fingerprints as not belonging to their mother Anastacia more so that the witness thereof was defendant Sepe himself. They even went to the extent of having the fingerprints and signature of Sepe examined by the NBI. Yet, the NBI did not give a clear-cut finding on the fingerprints for being allegedly blurred. In the mind of the Court, the question of the genuineness of the withdrawal of the adverse claim has become moot and insignificant by reason of the confirmation of the sale by the plaintiffs in favor of herein defendant Generoso Sepe (Exh. "L") for they are then estopped to disclaim what they had earlier affirmed to be valid and genuine. Besides, why did they not question the document during the lifetime of their mother Anastacia Kilang when she was the only person who could confirm or refute its genuineness? And, why did it take them only on December 21, 1998, or six years after, to move for its nullification when they filed the first case in court (Civil Case No. 6703) x x x⁵⁵

Petitioner relied and continues to rely on the DOS, which was duly notarized, wherein it is stated:

I, ANASTACIA KILANG, x x x for and in consideration of the sum of FIFTEEN THOUSAND PESOS (P15,000.00) Philippine currency, to me in hand paid by SPS. GENEROSO SEPE and GAUDENCIA D. SEPE x x x, receipt of the said amount is hereby acknowledged x x x⁵⁶

as proof of the receipt of the consideration. In the words of petitioner: "What evidence is more eloquent insofar as proving consideration and parting of the money as consideration of the sale than the document of sale itself, in this case, the 'Deed of Sale of a Registered Land' executed by Anastacia Kilang duly notarized."⁵⁷

Petitioner also points out that the CA's observation that Anastacia had executed the Notice of Adverse Claim with haste showed that she did not sell her property to anybody is speculative because she could no longer testify as to why she executed the same.⁵⁸ Besides, petitioner adds that the execution of the COS is proof that indeed there was a sale by Anastacia of the subject lot.⁵⁹

⁵⁵ Id. at 159-160.

⁵⁶ Id. at 144.

⁵⁷ Id. at 72.

⁵⁸ Id.

⁵⁹ Id. at 72-73.

Petitioner's reliance on the DOS as proof that the sale contemplated therein was supported by sufficient consideration is not without legal basis. The disputable presumption of existence and legality of the cause or consideration⁶⁰ inherent in every contract supports his stance.

Article 1354 of the Civil Code provides: "Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary." Otherwise stated, the law presumes that even if the contract does not state a cause, one exists and is lawful; and it is incumbent on the party impugning the contract to prove the contrary.⁶¹ If the cause is stated in the contract and it is shown to be false, then it is incumbent upon the party enforcing the contract to prove the legality of the cause.⁶²

This disputable presumption is also provided in Section 3, Rule 131 of the Rules, which provides:

SEC. 3. *Disputable presumptions.* – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(r) That there was a sufficient consideration for a contract;

x x x x

In *Mangahas v. Brobio*,⁶³ the Court stated that the presumption of sufficient consideration can be overcome by preponderance of evidence and that mere assertion that the contract has no consideration is not enough, *viz.*:

A contract is presumed to be supported by cause or consideration.⁶⁴ The presumption that a contract has sufficient consideration cannot be overthrown by a mere assertion that it has no consideration. To overcome the presumption, the alleged lack of consideration must be shown by preponderance of evidence.⁶⁵ The burden to prove lack of consideration rests upon whoever alleges it, which, in the present case, is respondent.⁶⁶

Aside from the presumption of sufficient consideration working in favor of petitioner, the acknowledgment of the DOS before a notary public makes it a public document.

⁶⁰ Eduardo P. Caguioa, COMMENTS AND CASES ON CIVIL LAW CIVIL CODE OF THE PHILIPPINES, Vol. IV, 1968 First Edition, p. 422.

⁶¹ Id. at 422-423.

⁶² Id. at 423.

⁶³ 648 Phil. 560 (2010).

⁶⁴ Id. at 570, citing CIVIL CODE OF THE PHILIPPINES, Art. 1354.

⁶⁵ Id., citing *Spouses Saguid v. Security Finance, Inc.*, 513 Phil. 369, 384 (2005).

⁶⁶ *Mangahas v. Brobio*, supra note 63, at 570.

According to Section 19, Rule 132 of the Rules, documents acknowledged before a notary public, except last wills and testaments, and public records, kept in the Philippines, of private documents required by law to be entered therein, are public documents. The certificate of acknowledgment in a notarial document is *prima facie* evidence of the execution of the instrument or document involved.⁶⁷ On the other hand, 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 stated therein; and 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.⁶⁸

Being a public document, the evidence to be presented to contradict the facts stated in the DOS, which include the payment of the consideration, must be more than merely preponderant as noted by the Court in *Alcantara-Daus v. Sps. De Leon*.⁶⁹

As a general rule, the due execution and authenticity of a document must be reasonably established before it may be admitted in evidence.⁷⁰ Notarial documents, however, may be presented in evidence without further proof of their authenticity, since the certificate of acknowledgment is *prima facie* evidence of the execution of the instrument or document involved.⁷¹ **To contradict facts in a notarial document and the presumption of regularity in its favor, the evidence must be clear, convincing and more than merely preponderant.**⁷² (Emphasis supplied)

That clear and convincing evidence is required to dispute a notarial document is reiterated by the Court in *Spouses Santos v. Spouses Lumbao*,⁷³ viz.:

Furthermore, both “Bilihan ng Lupa” documents dated 17 August 1979 and 9 January 1981 were duly notarized before a notary public. It is well-settled that a document acknowledged before a notary public is a public document⁷⁴ that enjoys the presumption of regularity. It is a *prima facie* evidence of the truth of the facts stated therein and a conclusive presumption of its existence and due execution.⁷⁵ To overcome this presumption, there must be presented evidence that is clear and convincing. Absent such evidence, the presumption must be upheld.⁷⁶ x x x Nonetheless, in the present case petitioners’ denials without clear and convincing evidence to support their claim of fraud and falsity were not sufficient to overthrow the above-mentioned presumption; hence, the

⁶⁷ RULES OF COURT, Rule 132, Sec. 30.

⁶⁸ Id., Rule 132, Sec. 23.

⁶⁹ 452 Phil. 92 (2003).

⁷⁰ Id. at 100, citing RULES OF COURT, Rule 132, Sec. 20.

⁷¹ Id. at 100-101, citing RULES OF COURT, Rule 132, Sec. 30.

⁷² Id. at 101, citing *Lao v. Villones-Lao*, 366 Phil. 49 (1999); *Calahat v. Intermediate Appellate Court*, 311 Phil. 379, 385 (1995); *Yturralde v. Azurin*, 138 Phil. 432, 442 (1969).

⁷³ Supra note 51.

⁷⁴ Id. at 349, citing REVISED RULES ON EVIDENCE, Rule 132, Sec. 19(b).

⁷⁵ Id., citing REVISED RULES ON EVIDENCE, Rule 132, Sec. 23; *Medina v. Greenfield Development Corporation*, 485 Phil. 533, 543 (2004); *Agasen v. Court of Appeals*, 382 Phil. 391, 399 (2000).

⁷⁶ Id., citing *Medina v. Greenfield Development Corporation*, id.

authenticity, due execution and the truth of the facts stated in the aforesaid Bilihan ng Lupa are upheld.⁷⁷

Given the foregoing, the Court is not persuaded by the CA's postulation that the oral refutation by respondents Feliciano and Maria of the consideration stated in the DOS has reached the threshold of the required quantum of proof of clear and convincing evidence. Their mere oral declaration that no consideration was paid to their mother Anastacia is simply not enough given the presence of the following notarized and public documents in petitioner's favor:

1. DOS, notarized on November 18, 1992, wherein P15,000.00 was stated as the consideration of the sale "to [Anastacia] in hand paid by SPS. GENEROSO SEPE and GAUDENCIA D SEPE x x x receipt of the said amount is hereby acknowledged x x x;"⁷⁸

2. Notice of Withdrawal of Adverse Claim, executed by Anastacia and notarized on January 14, 1993, a month after she executed the Notice of Adverse Claim wherein she averred that "I remember that I have already sold the same land to SPS. GENEROSO SEPE AND GAUDENCIA D. SEPE on November 18, 1992 before Atty. Gaspar S. Rulona per Doc. No. 98; Page 20; Book No. XLVIII; Series of 1992 at Tagbilaran City; x x x the NOTICE OF ADVERSE CLAIM is in error, and I want the same withdrawn, so that the DEED OF SALE OF THE LAND COVERING TCT NO. T-10069, will be pushed through, and the title so issued in favor of the Vendee Sps. Generoso Sepe and Gaudencia D. Sepe[;]"⁷⁹

3. TCT T-35367 issued in the names of spouses Sepe on January 14, 1993,⁸⁰ and

4. COS notarized on December 17, 1992 wherein Feliciano, Severo, Maria and Donata "for and in consideration of FORTY THOUSAND PESOS (P40,000.00) x x x to us in hand paid to our full satisfaction by SPOUSES GENEROSO SEPE AND GAUDENCIA SEPE x x x do hereby CONFIRM ABSOLUTELY AND IRREVOCABLY, the sale of a parcel of land situated in Barrio Gaboc (now Cabawan District), Tagbilaran City, made and executed by our parents, Anastacia Kilang-Solijon and Fabian Solijon, in favor of herein SPOUSES GENEROSO SEPE AND GAUDENCIA SEPE, and more particularly described as follows, to wit: [technical description of TCT T-10069 follows] x x x[; and] we hereby warrant to defend the rights and peaceful possession of SPOUSES GENEROSO SEPE AND GAUDENCIA SEPE over the above-described real property against any claim whatsoever and we hereby WAIVE ALL

⁷⁷ Id.

⁷⁸ *Rollo*, p. 144.

⁷⁹ Id. at 152.

⁸⁰ Id. at 142.



OUR RIGHTS over the aforementioned real property in favor of SPOUSES GENEROSO SEPE AND GAUDENCIA SEPE[.]”⁸¹

The Court moreover agrees with the RTC’s observation that respondents should have questioned the DOS during the lifetime of their mother Anastacia given that she was the only person who could confirm or refute its genuineness and contents. It must be recalled that Anastacia died on October 20, 1993,⁸² about nine months after she executed the Notice of Withdrawal of Adverse Claim and the issuance of TCT T-35367 in the names of spouses Sepe. Indeed, the most credible person who could attest that no consideration was paid by spouses Sepe in connection with the DOS was Anastacia.

Where a document, like a deed of sale, duly acknowledged before a notary public is disputed, the parties thereto are in the best position to refute its execution and contents. Their testimonies are crucial in order to establish the required proof of clear and convincing evidence to overcome the presumptions in favor of public documents. Oral declarations by non-parties which contradict the contents of notarial documents should be evaluated and admitted with extreme caution in order not to erode their status and significance as public documents.

Furthermore, the COS executed by 4 of the 5 children of Anastacia, which is supported by a valuable consideration, bolsters petitioner’s cause. It is noted that Dominga, who is not a signatory to the COS, did not testify for respondents. Indeed, respondents have ratified and confirmed the sale of the subject lot by their parents to spouses Sepe. Again, their claim that the amount they received from spouses Sepe was a Christmas gift to them, aside from being incredible as held by the RTC, is not clear and convincing evidence to overcome the facts stated in the COS.

Given the failure of respondents to adduce clear and convincing evidence to support their cause and overcome the presumptions granted by law in favor of the public documents above-enumerated, the RTC did not err in granting petitioner’s demurrer to evidence.

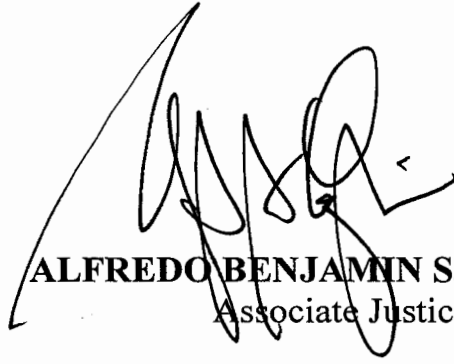
WHEREFORE, the Petition is hereby **GRANTED**. The Decision of the Court of Appeals dated August 4, 2010 and its Resolution dated October 27, 2011 in C.A.-G.R. C.V. No. 01786 are **REVERSED AND SET ASIDE**. The Order dated August 7, 2006, dismissing the complaint by reason of the granting of petitioner’s demurrer to evidence, and the Order dated September 14, 2006, denying respondents’ motion for reconsideration, of the Regional Trial Court, Branch 3, Tagbilaran City in Civil Case No. 6703, are **REINSTATED** and **AFFIRMED**.

⁸¹ Id. at 153.

⁸² Id. at 159.




SO ORDERED.



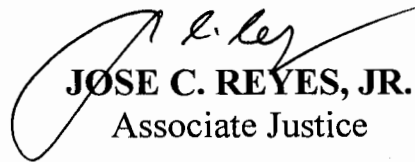
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

(On leave)
ESTELA M. PERLAS-BERNABE
Associate Justice



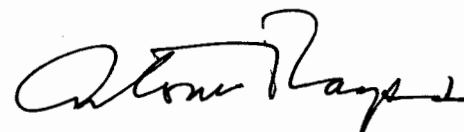
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

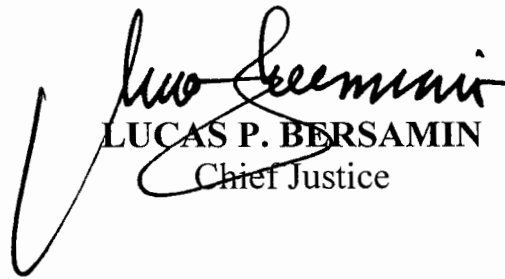
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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.



LUCAS P. BERSAMIN
Chief Justice

