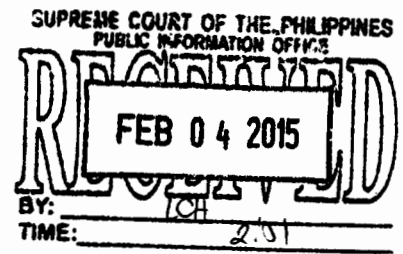




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 3, 2014** which reads as follows:*

“G.R. No. 163300 – ARSENIA G. SISON, JUANITA G. ROSARIO, JESUSA G. REYES, ERMELINDA L. GONZALES AND MARIA NATHELYN ABRAJANO AWANIN, Petitioners, v. ATTY. NARCISO S. BANDONG, JULIETA LIGERALDE, JOJO LIGERALDE, JOSELITO LIGERALDE AND JOSEPHINE LIGERALDE, Respondents.

Petitioners Arsenia G. Sison, Juanita G. Rosario, Jesusa G. Reyes, Ermelinda L. Gonzales and Maria Nathelyn Abrajano Awanin hereby seek to reverse the judgment promulgated on November 4, 2003,¹ whereby the Court of Appeals (CA) in CA-G.R. CV No. 71107 affirmed the adverse decision of the Regional Trial Court (RTC) in Lingayen, Pangasinan in favor of respondents, with modification as to the grant of damages.

This case involves a dispute among relatives concerning the ownership of a parcel of land with an area of 3,692 square meters being used as a fishpond and situated in Buenlag, Binmaley, Pangasinan.² Petitioners claim ownership based on being heirs by intestate succession, but respondent Atty. Narciso S. Bandong (Bandong) contends that he acquired the property by purchase from its owner, the late Nazario Ligeralde (Nazario), prior to his death.

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¹ *Rollo*, pp. 29-38; penned by Associate Justice Martin S. Villarama, Jr. (now a Member of this Court), with Associate Justice Mario L. Guarifia III (retired) and Associate Justice Jose C. Reyes, Jr., concurring.

² *Id.* at 30.

Petitioners and respondents Julieta Ligeralde, Jojo Ligeralde, Joselito Ligeralde and Josephine Ligeralde were the surviving grandchildren and heirs of Nazario, but the latter were impleaded herein as the possessors of the property in 1991 upon the death of their father, Rodolfo Gonzales, who had served as the caretaker-tenant of the fishpond since 1945.³

The controversy arose in 1996 when Bandong asserted that petitioners had stopped giving him his 1/3 share of the *bangus* harvested from the fishpond that they had supposedly agreed upon.⁴ For refusing to comply with his demand that they turn over his share of the gross proceeds of the sale of *bangus*, Bandong filed criminal complaints for *estafa* against petitioners.⁵ It was also around that time when Bandong, the brother-in-law of the late Flaviano Ligeralde (a son of Nazario and an uncle of petitioners), first laid claim to the property by informing petitioners that he had bought the property from Nazario.⁶

Upon verification, petitioners discovered that Nazario had supposedly executed in favor of Bandong a Deed of Absolute Sale dated October 18, 1968⁷ over the land where the fishpond was situated for the amount of ₱4,000.00. The Deed of Absolute Sale was witnessed by Flaviano Ligeralde and Atty. Robostan dela Vega, and was duly notarized before Notary Public Isaias B. Mangaliag.⁸ Insisting that the sale of the property was void, petitioners lodged in the RTC a complaint for annulment of documents, recovery of ownership, partition and damages, averring that Nazario could not have executed the Deed of Absolute Sale considering his weak physical condition at the time of the supposed sale.

On February 14, 2001, the RTC rendered its decision dismissing the complaint and awarding damages in favor of respondents. It ruled that petitioners failed to preponderantly prove Nazario's inability to sign the Deed of Absolute Sale, and that the Deed of Absolute Sale had been forged.⁹ It said that petitioners failed to present concrete evidence to show that the consent of either of the parties to the sale had been vitiated by mistake, violence, undue influence or fraud as to justify the annulment of the sale.¹⁰

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³ Id. at 43.

⁴ Id. at 31.

⁵ Id.

⁶ Supra note 3.

⁷ Id. at 51.

⁸ Id. at 30.

⁹ Id. at 109-112.

¹⁰ Id.

Aggrieved, petitioners appealed to the CA, insisting that the RTC had thereby acted arbitrarily and with grave abuse of discretion in rendering its decision; and that its conclusions had not been supported by factual or legal basis, and had been in total disregard of the evidence on record.¹¹

On November 4, 2003, the CA promulgated its assailed decision affirming the judgment of the RTC, but reducing the amount of damages awarded.¹² It held that in the absence of clear and convincing evidence, petitioners' allegations that their grandfather had already been bedridden and dying at the time of the alleged execution of the Deed of Absolute Sale could not prevail over the positive and categorical testimony of the notary public on the circumstances of the due execution of the Deed of Absolute Sale.¹³

Did the CA err in affirming the judgment of the RTC?

We deny the petition for review, and uphold the decision of the CA.

It is a settled rule that the Court is not a trier of facts. Accordingly, the Court adopts the findings of fact of the trial court and the CA absent any showing of misapprehension of facts, reversible error or grave abuse of discretion on the part of both courts.

The records show that Nazario had sold the property in dispute to Bandong on October 18, 1968 under the Deed of Absolute Sale. Petitioners contend, however, that the Deed of Absolute Sale was simulated, and that the signature of Nazario was forged, considering that Nazario, being then of advanced age and failing medical condition at the time of the execution, was incapable of signing the deed. They presented specimen signatures of Nazario for visual comparison by the trial court.¹⁴

Petitioners cannot succeed. In *Rivera v. Turiano*,¹⁵ the Court ruled:

x x x that an allegation of forgery and a perfunctory comparison of the signatures by themselves cannot support the claim of forgery, as forgery cannot be presumed and must be proved by clear, positive and convincing evidence, and the burden of proof lies in the party alleging

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¹¹ Id. at 126.

¹² Id. at 37.

¹³ Id. at 35.

¹⁴ Id. at 34.

¹⁵ G.R. No. 156249, March 7, 2007, 517 SCRA 668, 674.

forgery. Even in cases where the alleged forged signature was compared to samples of genuine signatures to show its variance therefrom, this Court still found such evidence insufficient. It must be stressed that the mere variance of the signatures cannot be considered as conclusive proof that the same were forged. x x x

In contrast, Bandong presented Isaias Mangaliag, the notary public who had notarized the contested Deed of Absolute Sale, to establish the circumstances of its execution. Mangaliag's testimony related facts that dispelled any doubts as to the due execution of the deed.

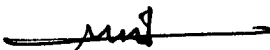
The existence and due execution of the Deed of Absolute Sale were sufficiently established by respondents. Bare allegations of fraud and forgery unsupported by clear and convincing evidence deserved scant consideration, but the credible testimony of the notary public who rendered a clear and first-hand account of the details surrounding its execution must be accorded belief and consideration. There is no question that as between the bare allegations of petitioners and the testimony of the notary public, the latter must prevail. Hence, the CA correctly rejected petitioners' allegations of fraud and forgery for not being supported by clear and convincing evidence.

Anent ownership of the property, the CA rightly ruled in favor of Bandong, who had acquired the property from Nazario himself under the Deed of Absolute Sale dated October 18, 1968. The ownership of the property thereby became vested in Bandong. Considering that Nazario died on November 18, 1968 (per the Certificate of Death),¹⁶ the property could not anymore be transmitted to petitioners by intestate succession, thereby eliminating the foundation of their claim of ownership of the property.

WHEREFORE, we **DENY** the petition for review on *certiorari*; **AFFIRM** the decision promulgated by the Court of Appeals on November 4, 2003 in C.A.-G.R. CV No. 71107; and order the petitioners to pay the costs of suit.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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¹⁶ Rollo, p. 52.

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The Hon. Presiding Judge
Regional Trial Court, Br. 68
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(Civil Case No. 17861)

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