

FIRST DIVISION

[G.R. NO. 150897, April 11, 2005]

**TURADIO C. DOMINGO, PETITIONER, VS. JOSE C. DOMINGO,
LEONORA DOMINGO-CASTRO AND HER SPOUSE JUANITO
CASTRO, NUNCIA DOMINGO-BALABIS, ABELLA DOMINGO
VALENCERINA AND THE REGISTER OF DEEDS, QUEZON CITY,
RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This is a petition for review under Rule 45 of the Rules of Court of the Decision^[1] dated November 26, 2001 in CA-G.R. CV No. 59331, of the Court of Appeals, which affirmed the Judgment dated January 6, 1998 of the Regional Trial Court (RTC) of Quezon City, Branch 90, in Civil Case No. Q-89-3820. The trial court dismissed herein petitioner's complaint in Civil Case No. Q-89-3820 for declaration of the nullity of a deed of absolute sale over a house and lot located at Project 4, Quezon City.^[2]

Petitioner is the oldest of the five children of the late Bruno B. Domingo, formerly the registered owner of the properties subject of this dispute. Private respondents Leonora Domingo-Castro, Nuncia Domingo-Balabis, Abella Domingo, and Jose Domingo are petitioner's siblings. A family quarrel arose over the validity of the purported sale of the house and lot in Project 4 by their father to private respondents.

The facts of this case, as synthesized from the findings of the trial court and affirmed by the court *a quo*, are as follows:

Bruno B. Domingo, a widower and retired military man, was the registered owner, as shown by Transfer Certificate of Title (TCT) No. 128297, issued by the Register of Deeds of Quezon City, of a house and lot with an area of 269.50 square meters, located at 34 H. Honrubia St., Project 4, Quezon City.

In December 1970, Bruno needed money for his medical expenses, so he sold said properties. On December 28, 1970, he signed a Deed of Absolute Sale conveying the abovementioned properties to his children Leonora, Nuncia, Abella, and Jose for a consideration of P10,000. The deed was witnessed by Concesa Ibañez and Linda Noroña and notarized by Atty. Rosauro V. Noroña.^[3]

Jose then brought the deed to the Register of Deeds of Quezon City, as a result of which TCT No. 128297 was cancelled and a new title, TCT No. 247069 was issued in the names of the vendees.

Bruno Domingo died on April 6, 1975.^[4]

Sometime in 1981 petitioner, who by then was residing on the disputed property, received a notice from the Quezon City Hall declaring him a squatter and directing him to demolish his shanty on the lot. Petitioner found out that the planned demolition was at the instance of his brother, Jose and sister, Leonora.

Sometime in 1986, petitioner learned of the existence of the assailed Deed of Absolute Sale when an ejectment suit was filed against him. Upon advice of his counsel, he had the then Philippine Constabulary-Integrated National Police (PC-INP, now Philippine National Police or PNP) Crime Laboratory in Camp Crame, Quezon City compare the signature of Bruno on the said deed against specimen signatures of his father. As a result, the police issued him Questioned Document Report No. 192-86 to the effect that the questioned signature and the standard signatures were written by two different persons. Another Questioned Document Report, No. 007-89, subsequently issued by the police came up with the same conclusion.

Petitioner filed a complaint for forgery, falsification by notary public, and falsification by private individuals against his siblings and Atty. Noroña before the public prosecutor of Quezon City. But after it conducted an examination of the questioned documents, the National Bureau of Investigation (NBI) came up with the conclusion that the questioned signature and the specimen signatures were written by one and the same person, Bruno B. Domingo. The public prosecutor dismissed the criminal complaint on June 22, 1989. Petitioner appealed the order of dismissal to the Department of Justice (DOJ) but the latter affirmed the prosecutor's action. A similar criminal complaint filed by petitioner before the public prosecutor of Manila was likewise dismissed.

On October 23, 1989, petitioner instituted Civil Case No. Q-89-3820 before the RTC of Quezon City for the declaration of the nullity of the Deed of Sale, reconveyance of the disputed property, and cancellation of TCT No. 247069. Petitioner alleged that Bruno B. Domingo's signature on the deed in question was forged. He likewise averred that the sale was done in violation of the restriction annotated at the back of Bruno's title, to the effect that prior approval of the People's Homesite and Housing Corporation (PHHC)^[5] was needed to effect any sale.

In their answer, private respondents relied heavily on the findings of the NBI that Bruno B. Domingo's signature on the deed was genuine, and hence, the Deed of Absolute Sale was not a forgery.

On January 6, 1998, the trial court disposed of Civil Case No. Q-89-3820 in this wise:

IN VIEW OF THE FOREGOING, judgment is rendered DISMISSING the complaint in this case.

All other claim/s including counterclaim/s are dismissed for lack of legal and/or factual basis.

SO ORDERED.^[6]

In dismissing the complaint, the trial court disregarded the conflicting reports of the police crime laboratory and the NBI "for failure of the offering party or parties to

show that the standard or specimen signatures were indeed those of Bruno B. Domingo."^[7] The trial court likewise found that petitioner failed to substantiate his claim that prior PHHC approval was needed before a valid sale of the properties in dispute could be made.

Dissatisfied, petitioner elevated the case to the Court of Appeals, which docketed his appeal as CA-G.R. CV No. 59331. He contended that the lower court erred in ruling that the vendor's signature on the Deed of Absolute Sale of December 28, 1970 was not a forgery.

On January 11, 2000, petitioner filed a motion for new trial with the appellate court on the ground of newly discovered evidence consisting of a letter of Bruno B. Domingo dated February 1, 1972 purportedly requesting from PHHC permission to mortgage the house and lot in Project 4, Quezon City. Also on March 22, 2000, petitioner filed a supplemental motion for new trial with the Court of Appeals, attaching the letter dated February 2, 1972, of PHHC to Bruno B. Domingo, granting the latter's request on July 6, 2000. Petitioner moved that the appellate court grant him authority to put up a *sari-sari* store on a portion of the disputed lot, allegedly to augment his meager pension.

In its resolution dated December 29, 2000, the appellate court denied all foregoing motions.^[8] In denying the motions for new trial, the appellate court noted that there was no showing whatsoever that "the letter-request could not have been discovered and produced prior to the trial below by the exercise of reasonable diligence and...is of such a character as would probably change the result."^[9] It likewise pointed out that both the motion for new trial and the supplemental motion for new trial were "not accompanied by affidavits showing the facts constituting the grounds therefor and the newly discovered evidence."^[10]

On November 26, 2001, the appellate court decided CA-G.R. CV No. 59331 as follows:

WHEREFORE, the appeal is DISMISSED and the appealed decision is AFFIRMED *en toto*.

SO ORDERED.^[11]

Hence, the instant petition for review interposed by petitioner grounded on the following reasons for allowance of writ:

The declaration that the Deed of Absolute Sale dated December 28, 1970 was executed by Bruno B. Domingo over the properties covered by TCT No. 128297, is not valid, proper and legal, because said Deed of Absolute Sale was not executed by said Bruno B. Domingo, as per findings of the [PC-INP] in its laboratory examination, and that the said Deed of Absolute Sale was in violation of the prohibition annotated at the back of said title, and that the sale was done within the prohibited period of five (5) years. Moreover, said Bruno B. Domingo should [not have] requested for authority to mortgage the property in question from the People's Homesite [and] Housing Authority on February 1, 1972, if he really sold the same in 1970.^[12]