

SECOND DIVISION

[G.R. No. 215614, March 27, 2019]

CARMELITA V. DIZON, PETITIONER, VS. JOSE LUIS K. MATTI, JR., RESPONDENT.

RESOLUTION

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court filed by petitioner Carmelita V. Dizon (Dizon) against respondent Jose Luis K. Matti, Jr. (Matti, Jr.), assailing the Decision^[2] dated July 25, 2014 (assailed Decision) and Resolution^[3] dated November 26, 2014 (assailed Resolution) promulgated by the Court of Appeals (CA) Tenth Division in CA-G.R. CV No. 98685, which reversed the Decision^[4] dated October 25, 2011 and Order^[5] dated April 13, 2012 issued by the Regional Trial Court of Las Piñas City, Branch 202 (RTC) in Civil Case No. 09-0078.

The Facts and Antecedent Proceedings

As narrated by the CA in its assailed Decision, and as culled from the records of the case, the essential facts and antecedent proceedings of the instant case are as follows:

This case stems from a Complaint^[6] for Specific Performance filed by [respondent Matti, Jr.] against [petitioner Dizon] on July 2, 2009. The allegations of the parties, as culled from the herein assailed [RTC] Decision, are as follows:

"x x x [Respondent Matti, Jr.] alleged that sometime during the second week of February 2000, Zenaida Acleto, a real estate agent[,], together with Mrs. Basilica C. Estaris, offered [respondent Matti, Jr.] a townhouse for sale [(subject property)] that belonged to [petitioner Dizon] and located at Block 2, Lot 48, Veraville Alegria Townhomes, San Antonio Road, Talon IV, Las Piñas City, with an area of sixty (60) square meters and fifty decimeters (60.50). [I]n the third week of February 2000, [respondent Matti, Jr.] together with Ms. Acleto and Basilica Estaris made a physical inspection of the said townhouse and was shown all the original documents of said townhouse including the original Owner's Duplicate Certificate of Title No. 58674, registered with the Register of Deeds of Las Piñas City [(RD)] in the name of [petitioner] Dizon.

After [respondent Matti, Jr.] photocopied the [alleged] original

Owner's Duplicate Certificate of Title No. T-58674 and brought it to the [RD], [respondent Matti, Jr.] personally verified that it was one and the same with the one filed with the [RD] and thus, [respondent Matti, Jr.] agreed to purchase the property from [petitioner Dizon].

On February 24, 2000, Ms. Acleto and Mrs. Estaris together with [respondent Matti, Jr.] came to see [petitioner Dizon.] A Deed of Absolute Sale was executed by [petitioner Dizon] in favor of [respondent Matti, Jr.], duly notarized the same and after which [respondent Matti, Jr.] paid petitioner Dizon] in full.

On August 25, 2000, [respondent Matti, Jr.] personally went to the Las Piñas City Assessor's Office to update the real estate taxes and to get a new Tax Declaration for [petitioner Dizon's] property only to be told that all of the documents (TCT No. 58674 and Tax Receipts) that were in [respondent Matti, Jr.'s] possession were falsified.

On September 15, 2000, [respondent Matti, Jr.] went back to the [RD] to have the Owner's Duplicate copy of TCT No. T-58674 authenticated by the said office, registered in [petitioner Dizon's] name. Thereafter, [respondent Matti, Jr.] was told verbally that said title is fake. A certificate was then issued by [the RD] attesting that said title in [respondent Matti, Jr.'s] possession is fake.

In order to protect his rights and to avoid any fraudulent transfer of the said property to an innocent third party, [respondent Matti, Jr.] caused the annotation of the Affidavit of Adverse Claim on TCT No. T-58674 before the [RD].

Despite oral and written demand, [petitioner Dizon] has not rectified [her alleged] wrongdoings by delivering the authentic Owner's Duplicate Copy of TCT No. T-58674. Thus, [respondent Matti, Jr.] asked that [petitioner Dizon] be ordered to: a) Deliver the [O]wner's [Duplicate certificate [of] TCT No. T-58674 to him or if [petitioner Dizon] refuses to do so, that the [RD] be ordered to cancel TCT No. T-58674 and issue a new TCT in [respondent Matti, Jr.'s] favor; b) that physical possession of the property be surrendered to him; c) that [petitioner Dizon] be ordered to pay x x x.

x x x [Petitioner Dizon] alleged that [respondent Matti, Jr.] has no cause of action against [her] because she did not encumber and/or transfer ownership of her property to [respondent Matti, Jr.] x x x. [Petitioner Dizon also claimed that she] did not execute nor signed (sic) the Deed of Absolute Sale presented by [respondent Matti, Jr.] nor did she participate in the negotiation, preparation and execution of the said Deed of Absolute Sale. Finally, [petitioner Dizon] stated

that she does not know [respondent Matti, Jr.] nor a certain Zenaida Acleto and Basilica Estaris x x x."^[7]

During the trial, [respondent Matti, Jr.] himself testified as [the] lone witness for the plaintiff. On the other hand, witnesses for [petitioner Dizon] were Wilfredo Dizon, [petitioner Dizon's] brother, and Jeoffrey G. Valix [(Valix)], a confidential agent and travel records verifier from the Bureau of Immigration.

On October 25, 2011, the RTC rendered its herein assailed Decision, dismissing the complaint for lack of merit, viz.:

x x x x

In the case at bar, [petitioner Dizon] has sufficiently proven that she was not here in the Philippines for the whole month of February 2000. As attested by [Valix] and the Certification from the [Bureau of Immigration and Deportation (BID)] dated March 22, 2011 issued by Simeon L. Sanchez, [petitioner Dizon] has shown that she was working in London contrary to the mere allegation of [respondent Matti, Jr.] that she was here in the Philippines and executed the assailed Deed of Absolute Sale, dated February 24, 2000. Such being the case, this Court is of [the] firm belief and resolve that [petitioner Dizon] could not have signed the said Deed of Absolute Sale which purportedly transferred or conveyed the subject property covered by [TCT No. T-58674] to [respondent Matti, Jr.]

x x x x

[Petitioner Dizon] in this case has actually substantiated with sufficient evidence her claim that her signature appearing in the said Deed of Absolute Sale [was] actually forged considering her absence in the country during the month of February 2000 and thereafter, during the execution of the Deed of Absolute Sale. The requisite consent of the contracting parties x x x was lacking, x x x and thus, it can be definitely determined that the subject [Deed of Absolute Sale] is invalid and should be declared null and void.^[8]

x x x x

On December 12, 2011, [respondent Matti, Jr.] filed his Motion for Reconsideration, but the same was denied by the RTC in the other assailed Order^[9] dated April 13, 2012.

Hence, [respondent Matti, Jr.] filed an appeal with the CA.^[10]

The Ruling of the CA

In its assailed Decision, the CA granted respondent Matti, Jr.'s appeal. The

dispositive portion of the assailed Decision of the CA reads:

WHEREFORE, the instant appeal is **GRANTED**. The assailed Decision dated October 25, 2011 and the Order dated April 13, 2012 by the Regional Trial Court of Las Piñas City, Branch 202 is (sic) **REVERSED** and **SET ASIDE**. The Deed of Absolute Sale dated February 24, 2000 is hereby declared **VALID**. Accordingly, defendant-appellee Carmelita V. Dizon is directed to deliver the original Owner's Duplicate Copy of Transfer Certificate of Title No. T-58674 to plaintiff-appellant Jose Luis K. Matti, Jr. and to surrender the physical possession of the subject property to the latter.

SO ORDERED.^[11]

In the assailed Decision, the CA held that since a notarized document enjoys the presumption of regularity, and only clear, strong, and convincing evidence can rebut such presumption, the evidence presented by petitioner Dizon was not enough to refute the notarized Deed of Absolute Sale dated February 24, 2000, which stated that petitioner Dizon entered into a contract of sale over the subject property with respondent Matti, Jr. The CA added that allegations of forgery should not be presumed and that a claim of forgery cannot be accepted where no examination of signatures was conducted by an expert witness.

Petitioner Dizon filed a Motion for Reconsideration^[12] dated August 20, 2014 and a Most Respectful Motion to Admit Herein Supplemental Motion for Reconsideration^[13] dated August 29, 2014 before the CA, asking for a reconsideration of the assailed Decision, which were subsequently denied by the CA in the assailed Resolution.^[14]

Hence, the instant Petition.

Respondent Matti, Jr. filed his Comment/Opposition to the Petition for Review on *Certiorari*^[15] dated April 12, 2015, to which petitioner Dizon responded with her Reply (to respondent's Comment/Opposition) dated September 7, 2015.^[16]

Issue

The central question to be resolved by the Court is whether the CA was correct in upholding the sale covering the subject property purportedly entered into by petitioner Dizon and respondent Matti, Jr. on the basis of the presumption of regularity of the supposedly notarized Deed of Absolute Sale dated February 24, 2000.

The Court's Ruling

The Court finds petitioner Dizon's submissions meritorious and resolves to grant the instant Petition.

I. The Procedural Issues

Before deciding on the substantive merits of the instant case, the Court shall first delve into the various procedural issues raised by respondent Matti, Jr. against the

instant Petition.

Defect in the Verification and Certification of Non-Forum Shopping

A perusal of the Verification and Certification of Non-Forum Shopping^[17] (Certification) dated January 21, 2015 attached to the instant Petition reveals that it was the brother of petitioner Dizon, Wilfredo V. Dizon (Wilfredo), and not petitioner Dizon herself, who executed the Certification.

According to Section 5, Rule 7 of the Rules of Court, and as held by a *catena* of cases decided by the Court,^[18] it is the plaintiff or principal party who should execute the certification of non-forum shopping under oath. However, this rule is not entirely inflexible.

The Court has held that if, for reasonable or justifiable reasons, the party-pleader is unable to sign the certification, another person may be authorized to execute the certification on his or her behalf through a Special Power of Attorney.^[19]

Respondent Matti, Jr. claims that petitioner Dizon failed to substantiate her claim that there was a reasonable or justifiable reason for her failure to personally execute the Certification.^[20] This claim, however, is belied by the evidence on record. Petitioner Dizon claims that she, a senior citizen, was suffering from sickness while in London, United Kingdom at around the time of the filing of the instant Petition, disabling her from traveling to the Philippine Embassy to personally execute a certification of non-forum shopping. She presented a Medical Certificate^[21] dated February 11, 2005 and a Statement of Fitness Work for Social Security or Statutory Sick Pay^[22] dated January 23, 2015 to show that she was in poor medical condition, preventing her from personally executing the Certification at the Philippine Embassy.

Respondent Matti, Jr.'s argument^[23] that there was no Special Power of Attorney attached to the instant Petition that authorized Wilfredo to execute the Certification on behalf of his sister, petitioner Dizon, is also unavailing. While it is true that at the time of the filing of the instant Petition, a Special Power of Attorney authorizing Wilfredo to execute the Certification was not attached, petitioner Dizon was able to belatedly submit before the Court a Special Power of Attorney^[24] dated June 30, 2015 fully signed by petitioner Dizon and duly authenticated by the Philippine Embassy in London. The Court has held that the belated submission of an authorization for the execution of a certificate of non-forum shopping constitutes substantial compliance with Sections 4 and 5, Rule 7 of the Rules of Court.^[25]

The Rules of Civil Procedure should be applied with reason and liberality to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Rules of procedure are used to help secure and not override substantial justice. Thus, the dismissal of an appeal on a purely technical ground is frowned upon especially if it will result in unfairness.^[26] Hence, the Court refuses to dismiss outright the instant Petition on the basis of the defective Certification, which was eventually cured by the subsequent submissions of petitioner Dizon.

Unsigned Motion for Reconsideration dated August 20, 2014