

FIRST DIVISION

[G.R. NO. 152007, January 22, 2007]

**PROCOPIO TAPUROC, HEIRS OF ANTONIA EBE (DECEASED)
REPRESENTED BY HER CHILDREN NAMELY: HEIRS OF
CELEDONIA PUTONG, NAMELY: FORTUNATO ESCUDERO,
TERESITA TABALDINA, CONCORDIO E. NEBRIA, PEDRO
ESCUDERO AND LUISA PEDRERA; HEIRS OF EUFEMIO PUTONG,
NAMELY: RICARDO PUTONG AND PORFERIA PUTONG; HEIRS OF
GREGORIO PUTONG, NAMELY: ROSALIO PUTONG,
PERSEVERANDA LOPEZ, BERNARDO PUTONG AND ROSALINDA
OMAGAC; HEIRS OF MARIANO PUTONG, NAMELY: SERAPIA
DALHOG, TEODORA AYENG, MARCIANO PUTONG, RESTITUTA
LIQUIT, SERAPIA LUAY, FAUSTINO PUTONG AND SOFRONIA
PATROLLA, ALL REPRESENTED BY THEIR ATTORNEY-IN- FACT,
AUREA P. MERCIDOR, PETITIONERS, VS. CARMELITA
LOQUELLANO VDA. DE MENDE AND THE HEIRS OF EVANS
MENDE, NAMELY: ERIC MITCHEL, ERIC LYNDON, ERIC
FERDINAND, JOSE ERIC ERVIN AND JENNIFER MILDRED, ALL
SURNAMED MENDE AND THE REGISTER OF DEEDS OF THE CITY
OF TAGBILARAN, RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

Under consideration is this petition for review under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals (CA) in CA-G.R. CV No. 64548, to wit:

1. Decision^[1] dated September 21, 2001, affirming an earlier decision of the Regional Trial Court (RTC) of Tagbilaran City, Branch 47, in an action for *Declaration of Nullity of Deed of Sale, Cancellation of Transfer Certificate of Title (TCT) No. (8585) T-4767 and all Subsequent Documents and Damages*, thereat commenced by the herein petitioners against the respondents; and
2. Resolution^[2] dated January 23, 2002, denying the petitioners' motion for reconsideration.

The petition embodies an alternative prayer for this Court to remand the case to the trial court for the presentation of an expert witness.

The facts:

On September 19, 1996, in the RTC of Tagbilaran City, a Complaint for *Declaration of Nullity of Deed of Sale, Cancellation of TCT No. (8585) T-4767 and all Subsequent*

Documents and Damages^[3] was filed by the petitioners against respondents Carmelita Loquellano Vda. de Mende, the Heirs of Evans B. Mende, and the Register of Deeds of the City of Tagbilaran. Thereat docketed as Civil Case No. 5970 and raffled to Branch 47 of the court, the Complaint alleges that petitioners Procopio Tapuroc and all the successors-in-interest of deceased co-owner Antonia Ebe are the co-owners, co-heirs and/or descendants of the original owners of a parcel of land with an area of 5,795 square meters, more or less, situated in the Barrio (now District) of Booy, Tagbilaran, Bohol and previously covered by TCT No. 3444; that sometime in 1992, when the petitioners decided to partition the subject property, they discovered from the Office of the City Assessor that the title covering the land was already in the name of a certain Evans Mende by virtue of a Deed of Sale purportedly executed in favor of the latter by their predecessors-in-interest on December 30, 1967; that said Deed of Sale is a forged document because the alleged vendors therein, who were Procopio Tapuroc and the predecessors-in-interest of the other petitioners, did not sign the conveying deed nor receive any consideration therefor; and that one of the alleged vendors, Antonia Ebe, had already passed away in 1960, or long before the purported Deed of Sale was said to have been executed in 1967. Petitioners, as plaintiffs, thus pray for the nullification of the same Deed of Sale, the cancellation of the title issued pursuant thereto in the name of Evans Mende and the restoration of the previous title in their names, plus damages.

In their Answer,^[4] the respondent Mendes, as defendants, denied the material allegations of the Complaint and averred that the late Evans Mende, husband of respondent Carmelita Loquellano Vda. de Mende and father of the herein co-respondents, bought the subject parcel of land from its previous owners on December 12, 1967 as evidenced by a Deed of Sale duly notarized by Atty. Rodolfo Yap. They further assert that they had been in open, continuous, and peaceful possession of the land in question from the time of said sale, and had been religiously paying the realty taxes due thereon. By way of affirmative defense, the respondents assert that petitioners' cause of action, if any, had already prescribed in view of the unreasonable delay in filing the suit in court, let alone the fact that their (respondents') title has become indefeasible.

On June 7, 1999, after due proceedings, the trial court came out with its decision^[5] finding that the evidence adduced by the plaintiffs (now petitioners) was insufficient to establish their claim that the questioned Deed of Sale was a forgery. The court explained that despite the opportunity given them, the plaintiffs failed to present a handwriting expert to determine whether the said Deed of Sale was indeed a forged instrument, adding that laches had already set in because of plaintiffs' inaction and neglect in questioning the supposed forged character of the document after the lapse of more than twenty-nine (29) years from the time of its execution. Accordingly, the trial court rendered judgment dismissing the Complaint, thus:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered DISMISSING the complaint for lack of merit. No compensation for damages, moral, exemplary and litigation expenses is awarded for failure of plaintiffs (sic) to prove by preponderance of evidence the existence of malice or bad faith in filing the instant case.

SO ORDERED.

From the adverse decision of the trial court, the petitioners went on appeal to the CA in *CA-G.R. CV No. 64548*, faulting the court of origin in ruling that they failed to present convincing evidence to prove the fact of forgery in the execution of the assailed Deed of Sale. They likewise faulted the lower court in denying their motion to have the original copy of the Deed of Sale in dispute and their own Special Power of Attorney containing the genuine signatures of their predecessors-in-interest, be examined by a handwriting expert.

As stated at the outset hereof, the appellate court, in its Decision[6] of September 21, 2001, dismissed the petitioners' appeal and affirmed that of the trial court. Their motion for reconsideration having been denied by the CA in its Resolution[7] of January 23, 2002, the petitioners are now with this Court via the instant recourse on their main submission that -

THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT DISMISSED THE APPEAL OF THE PETITIONERS DESPITE SUFFICIENCY OF SUPPORTING EVIDENCE TO WARRANT A FAVORABLE JUDGMENT ON THE PART OF THE PETITIONERS,

and presenting for our resolution the following issues:

I

WHETHER OR NOT THE DEED OF SALE ALLEGEDLY EXECUTED ON DECEMBER 30, 1967 BETWEEN THE PETITIONERS' PREDECESSORS-IN-INTEREST AND THE RESPONDENTS IS VALID.

II

WHETHER OR NOT THE COURT OF APPEALS HAS CONTRADICTED ITSELF AND ARRIVED AT A CONCLUSION CONTRARY TO THE RECORDS, LAW AND THE APPLICABLE JURISPRUDENCE.

The recourse must fail.

As it is, the petitioners call for a review of the facts of the case. This is evident from the pleadings they filed with this Court. In their main petition^[8] and Memorandum,^[9] the petitioners emphatically state:

The issue in the case at bar boils down to whether or not the signatures of the petitioners' predecessors-in-interest and Procopio Tapuroc (the only surviving vendor to the alleged deed of sale) were forged; and if they were, is the declaration of nullity of the said deed of sale dated December 13, 1967 is proper (*sic*).

Clearly, the foregoing statement calls for a determination of the truth or falsehood of an alleged fact, a matter not for this Court to resolve. Well-settled is the rule that factual questions may not be raised in a petition for review on certiorari. Section 1 of Rule 45 of the Revised Rules of Court is explicit. It reads:

SECTION 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by certiorari from a judgment or final order or resolution of the

Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. *The petition shall raise only questions of law which must be distinctly set forth.* (Emphasis supplied)

Evident it is from the above that the function of the Court in petitions for review on certiorari is limited to reviewing errors of law that may have been committed by the lower courts. And, as a matter of sound practice and procedure, the Court defers and accords finality to the factual findings of trial courts, more so when, as here, such findings are undisturbed by the appellate court. This factual determination, as a matter of long and sound appellate practice, deserves great weight and shall not be disturbed on appeal, save only for the most compelling reasons,^[10] such as when that determination is clearly without evidentiary support or when grave abuse of discretion has been committed.^[11] This is as it should be since the Court, in petitions for review of CA decisions under Rule 45 of the Rules of Court, usually limits its inquiry only to questions of law. Stated otherwise, it is not the function of the Court to analyze and weigh all over again the evidence or premises supportive of the factual holdings of lower courts.^[12] The Court refrains from further scrutiny of factual findings of trial courts, more so when those findings are affirmed by the CA, as here. To do otherwise would defeat the very essence of Rule 45 and would convert the Court into a trier of facts, which it is not meant to be.^[13]

What is more, it appears undisputed that the assailed Deed of Sale is a public document, having been duly notarized by a certain Atty. Rodolfo Yap who, unfortunately, had already passed away. Being a notarial instrument, the deed in question is a public document and as such enjoys the presumption of regularity in its execution. To overthrow that presumption, sufficient, clear and convincing evidence is required, otherwise the document should be upheld.^[14]

Petitioners maintain, however, that by merely examining the signatures in the questioned Deed of Sale and the genuine signatures of their predecessors-in-interest in their Special Power of Attorney, the glaring dissimilarities between the two sets of signatures are immediately evident to support their claim of forgery.

We are not convinced.

As a rule, forgery cannot be presumed. It must be proved by clear, positive and convincing evidence. Mere allegation of forgery is not evidence and the burden of proof lies on the party alleging it.^[15] Here, the petitioners failed to discharge their burden.

As it were, the petitioners merely alleged that they filed two motions before the trial court to have the original copy of the documents in the Office of the Register of Deeds of Tagbilaran City be examined by handwriting experts but their motions were ignored by the trial court. They then harp on the excuse that they could not be expected to prove forgery if the trial court denied them the opportunity to do so.

We are not persuaded.

The trial court correctly ruled that the parties themselves dictate the course and flow of the presentation of evidence, as well as the witnesses for each side.