

FIRST DIVISION

[G.R. NO. 146523, June 15, 2006]

**SPOUSES ANICETO AND THELMA CIRELOS, PETITIONERS, VS.
SPOUSES WILLIAM G. HERNANDEZ, AND ROSEMARIE ZAFE AND
THE HON. COURT OF APPEALS, RESPONDENTS.**

DECISION

AUSTRIA-MARTINEZ, J.:

Before this Court is a petition for review seeking the reversal of the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 55835 promulgated on December 18, 2000,^[1] which affirmed the Decision^[2] dated May 8, 1996 of the Regional Trial Court (RTC) of Quezon City, Branch 92 in Civil Case No. Q-93-15226.

On March 10, 1993, spouses Aniceto and Thelma Cirelos (petitioners) filed a complaint for Breach of Contract, Annulment of Sale and Damages before the RTC, against spouses William G. Hernandez and Rosemarie Zafe (private respondents) alleging that: they are the registered owners of a house and lot located at No. 10 Kennedy Drive, Tandang Sora, Quezon City, consisting of 302 square meters and covered by TCT No. 244566; on March 5, 1991, petitioner Thelma Cirelos (Cirelos) obtained a loan from respondent William Hernandez (Hernandez), a money lender, in the amount of P450,000.00 and as security therefor, executed a Deed of Real Estate Mortgage in favor of Hernandez covering the said property; in order to effect the immediate release of the loan, Hernandez asked Cirelos to sign a blank bond paper containing nothing but her name which Hernandez said will be converted into promissory note; on February 15, 1993, petitioners received a letter from respondents asking them to vacate the property because respondents already own the same; Cirelos went to the Register of Deeds and learned that there was already a Deed of Sale in favor of respondents annotated at the back of the title as Entry No. PE-2060/T-244566, PR-24978, and a Release of Real Estate Mortgage annotated as Entry No. PE-2059/TCT-244566, PR-23978; Cirelos also discovered that the blank paper she signed, which Hernandez said will only be used as promissory note, was converted into a Deed of Absolute Sale;^[3] moreover, the Deed did not have the consent of Aniceto, husband of Cirelos, and the Release of Real Estate Mortgage is fictitious as petitioners have not yet paid their loan.^[4]

Respondents in their Answer countered that: Thelma did not sign any blank paper neither did they require her to do so; the execution of the Release of Real Estate Mortgage and Deed of Absolute Sale was out of the free will and volition of petitioners who could no longer pay the loan plus interest;^[5] in the execution of the promissory note, Real Estate Mortgage and Deed of Absolute Sale, Thelma was authorized by her husband, Aniceto, through a power of attorney executed way back on January 27, 1990;^[6] and it is not true that petitioners learned of the sale only after receiving a letter from respondents' lawyer dated February 15, 1993 and

thereafter verifying with the Register of Deeds, because as early as September 5, 1991, respondents' counsel had been writing petitioners asking them to vacate the property.^[7]

Trial ensued and on May 8, 1996, the RTC dismissed petitioners' complaint, based on the following findings:

After a careful study of the evidence of both parties, the Court finds that the Deed of Absolute Sale covering the subject property is not fabricated by the defendants. First of all, plaintiff Thelma Cirelos alleges that defendant made her sign a blank paper from which the latter later on made on [sic] Deed of Absolute Sale. However, plaintiff admitted during trial that it was not her habit of signing blank papers although in this particular case, she claimed she signed a blank paper to effect the immediate release of the loan. Furthermore, the paper used, the type of their contents, the signature of the parties, their subscribing witnesses and of the notary public, as well as the spacing and the wordings thereof, the entry number in the notarial register, all these are incontestable evidence that the document is what it purports to be. Second, Atty. Campos testified under oath in Court that both plaintiff and defendant appeared and signed the deed of sale before him. In this case, the presumption of regularity applies. Also, Atty. Campos is a disinterested third party who will not risk his name as well as his professional license for the benefit of his retaining client. Third, plaintiff admitted that defendant never made a demand on her to pay nor did she ever offered [sic] to pay the debt. This may be premised on the fact that plaintiff already knew that she had executed a Deed of Absolute Sale over the lot in question in favor of defendant Hernandez due to her inability to pay the debt. Another is the fact that plaintiffs never made any effort of reconstituting the original TCT which was burned during the fire that occurred in the Quezon City Hall where it was kept. Such omission only shows that plaintiffs are no longer interested in the land. Finally, the letter of plaintiffs asking for an extension of time to vacate the premises is an admission and recognition of the right of the defendants over the subject property.^[8]

Petitioners appealed to the CA which denied their appeal, finding that: Cirelos's testimony that she was made to sign a blank paper which will be converted into a promissory note is not worthy of belief as there was already a promissory note at the time the Real Estate Mortgage was executed; petitioners failed to impeach the credibility of Atty. Danilo Campos (Atty. Campos), the notary public before whom the Deed of Absolute Sale was acknowledged and they were not able to overthrow the presumption that official duty has been regularly performed; respondents were able to present the questioned deed of sale which appeared to be genuine and untampered and petitioners were not able to present proof to the contrary other than Cirelos's testimony; the RTC correctly noted the failure of Cirelos to pay their debt despite the lapse of reasonable length of time and her failure to take steps towards the reconstitution of the burned title; gross inadequacy of the price does not affect a contract of sale and there was no sufficient evidence to show defect in consent or show an intent other than a contract of sale.^[9]

Petitioners now come before this Court claiming that:

"[T]he judgment of the Honorable Court of Appeals is not in accord with law; committed grave abuse of discretion in the appreciation of the evidence on record; and the failure to apply or the misapplication of the aforecited provisions of the Civil Code and the Rules of Court."^[10]

Petitioners argue that: the true agreement between the parties is mortgage and not sale;^[11] there was lack of written demand on petitioners to comply with the mortgage agreement, thus the mortgage agreement subsists; the amount of the loan secured by the real estate mortgage is the same amount stated in the deed of absolute sale; the CA failed to apply Art. 1602 of the Civil Code which provides that the contract shall be presumed to be an equitable mortgage when the price is inadequate, when the vendor remains in possession of the property or when it can be inferred that the real intention of the parties is to make the transaction secure the payment of a debt or the performance of any other obligation; in this case, the market value of the house and lot is P1.2 Million while the amount of the sale is only P450,000.00; petitioners remain in possession of the property despite the execution of the assailed deed of absolute sale, and it was only in February 1993 or a year and a half after the date of the purported sale that the respondents demanded in writing that the petitioners vacate the premises.^[12]

Petitioners also claim that: the Deed of Absolute Sale is void as there was no cause or consideration;^[13] the consent of Cirelos was obtained through fraud as she was made to sign a blank bond paper in the pretext that it will be converted into a promissory note in favor of Hernandez in his personal capacity;^[14] the sale also did not have the consent of Cirelos's husband, as the Special Power of Attorney (SPA) relied upon by respondents were merely tampered with, *i.e.*, the words "sell", "absolute sale" and "sale" were written with another typewriter;^[15] Atty. Campos, who notarized the Real Estate Mortgage, the release thereof and the Deed of Absolute Sale is a biased witness since he is a retained counsel of respondents for eight years.^[16]

Petitioners pray that the entire records of the case be reviewed by this Court; that the decisions of the RTC and the CA be reversed and set aside; that the Deed of Absolute Sale and Release of Real Estate Mortgage be declared null and void; that respondents be ordered to comply with the terms and conditions of the Real Estate Mortgage; and that damages be awarded to petitioners, plus costs.^[17]

Respondents filed an Answer^[18] to the petition asserting that the Deed of Absolute Sale is complete in all details as the object, subject matter and consideration therefor are specified therein and the notary public before whom the document was signed even testified to its regularity;^[19] that the failure of petitioners to act on their alleged discovery of the transfer of title to respondents makes their claim hard to believe;^[20] that the decision of the trial court as affirmed by the CA has already settled the validity of the deed of sale on the basis of the credibility of the witnesses presented during trial;^[21] that the contents of the petition are evidentiary in nature and no error of law was raised in this petition for review; and that the argument that the true agreement between the parties is mortgage and not sale was raised for the first time in this Court.^[22]

Petitioners filed a Reply^[23] and both parties filed their respective Memoranda^[24] which reiterated their arguments on the matter.

Stated simply, the arguments of petitioners are as follows: Cirelos's signature in the Deed of Absolute Sale was obtained through fraud; there was no consent from Cirelos's husband; and the sale had no cause or consideration. Petitioners also argue that at most, the sale must be considered only as equitable mortgage as the amount stated in the deed of sale is inadequate, petitioners remain in possession of the property, and it took a year and a half after the date of the purported sale before respondents demanded that petitioners leave the premises.

The Court finds the petition devoid of merit.

As a rule, only questions of law are entertained by this Court in petitions for review on *certiorari* under Rule 45 of the Rules of Court.^[25] It is not our function to analyze or weigh all over again the evidence presented.^[26] Indeed, the findings of fact of the trial court, especially when affirmed by the CA are binding and conclusive on us, unless: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to the findings of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.^[27]

In the present petition, the Court finds no cogent reason to depart from the general rule. The CA did not commit any reversible error in affirming the RTC.

The Deed of Absolute Sale being impugned by petitioners is a public document having been notarized by Atty. Campos. As a public document, the deed has in its favor the presumption of regularity, and carries the evidentiary weight conferred upon it with respect to its due execution, *i.e.*, it is admissible in evidence without further proof of its authenticity and is entitled to full faith and credit upon its face.^[28] To rebut the same, there must be evidence that is clear, convincing and more than merely preponderant; otherwise the document shall be upheld.^[29]

In this case, all petitioners could offer by way of evidence was Cirelos's bare denial that she signed the subject deed of sale and her claim that what was given her to sign was a blank piece of paper which Hernandez later turned into said deed. Such denial is insufficient to overcome the positive value of the deed of sale which is a notarized document.^[30]

As held in *Veloso v. Court of Appeals*,^[31]

Documents acknowledged before a notary public have the evidentiary weight with respect to their due execution. The questioned x x x

deed of sale, [was] notarized and therefore, presumed to be valid and duly executed.^[32]

One who denies the due execution of a notarized document, has the burden of proving that contrary to the recital in the Acknowledgment, he has never appeared before the notary public and acknowledged the deed to be his voluntary act.^[33]

Cirelos testified that she has never seen Atty. Campos neither has she signed any deed of sale in his presence. Atty. Campos however testified that Cirelos appeared before him and signed the deed of sale in his presence.^[34]

Petitioners claim that since Atty. Campos is a retained counsel of Hernandez, his (Atty. Campos's) testimony is biased and not worthy of belief. Petitioners also claim that Cirelos's testimony is more credible than that of Atty. Campos and that therefore, her testimony that her signature in the deed of sale was obtained through fraud must be given credence.

On this point, it is well to remind petitioners that:

The oft-repeated principle is that where the credibility of a witness is an issue, the established rule is that great respect is accorded to the evaluation of the credibility of witnesses by the trial court. The trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination.^[35]

Indeed, the assessment by the RTC of the credibility of witnesses is entitled to great respect and weight for having had the opportunity of observing the conduct and demeanor of the witnesses while testifying.^[36] The RTC found it unbelievable that Cirelos, who admitted that it is not her habit to sign blank papers, should sign a blank bond paper which Hernandez purportedly later turned into an Absolute Deed of Sale. This was correctly affirmed by the CA which also noted that Cirelos's story that Hernandez told her that the blank paper she signed will be turned into a promissory note, is not worthy of belief as there was already a promissory note (Exhibit "F") signed at the time the Real Estate Mortgage was executed.

Apart from the allegations of petitioners no other proof was presented to justify a reversal or modification in the findings of the trial court which had the occasion to see the deportment of the witnesses as they testified in court.

Petitioners further claim that the Deed of Absolute Sale is void since it did not have the consent of Cirelos's husband. It is true that in the sale of conjugal properties, the consent of both the husband and the wife is required and the absence of the consent of one renders the entire sale null and void including the portion of the conjugal property pertaining to the spouse who contracted the sale.^[37]

In this case, while the Deed of Absolute Sale mentioned that Thelma Cirelos is "married to Aniceto Cirelos",^[38] and the Acknowledgment thereof stated that it is "signed by the vendor (Cirelos) with the marital consent of her spouse,"^[39] the Deed however does not actually contain any signature of Aniceto showing his