

FIRST DIVISION

[G.R. NO. 169578, November 30, 2006]

TERESITA DIO, PETITIONER, VS. ST. FERDINAND MEMORIAL PARK, INC. AND MILDRED F. TANTOCO, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review on *Certiorari* assailing the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 52311 which affirmed the decision of the Regional Trial Court (RTC), Branch 57 of Lucena City, in Civil Case No. 86-152. Likewise sought to be reversed and set aside is the resolution of the appellate court denying reconsideration of the assailed decision.

On December 11, 1973, Teresita Dio agreed to buy, on installment basis, a memorial lot from the St. Ferdinand Memorial Park, Inc. (SFMPI) in Lucena City. The 36-square-meter memorial lot is particularly described as Block 2, Section F, Lot 15. The purchase was evidenced by a Pre-Need Purchase Agreement^[2] dated December 11, 1973 and denominated as Contract No. 384. She obliged herself to abide by all such rules and regulations governing the SFMPI dated May 25, 1972.

SFMPI issued a Deed of Sale and Certificate of Perpetual Care^[3] dated April 1, 1974 denominated as Contract No. 284. The ownership of Dio over the property was made subject to the rules and regulations of SFMPI, as well as the government, including all amendments, additions and modifications that may later be adopted. Rule 69 of the Rules reads:

Rule 69. Mausoleum building and memorials should be constructed by the Park Personnel. Lot Owners cannot contract other contractors for the construction of the said buildings and memorial, however, the lot owner is free to give their own design for the mausoleum to be constructed, as long as it is in accordance with the park standards. The construction shall be under the close supervision of the Park Superintendent.

Meanwhile, the mortal remains of Dio's husband and father were interred in the lot at her own expense, without the knowledge and intervention of SFMPI. She engaged the services of a private contractor for the fabrication of niches and improvements on her lot. In August 1974, the remains of Dio's daughter were likewise interred in the niche constructed on the lot, again without the knowledge and intervention of SFMPI.

In 1986, Dio decided to build a mausoleum on the lot. In September that year, she caused the preparation of a design-plan for the construction of a mausoleum and the bidding out of the project.

In the early part of October 1986, Dio informed SFMPI, through its president and controlling stockholder, Mildred F. Tantoco, that she was planning to build a mausoleum on her lot and sought the approval thereof. Dio even showed to Tantoco the plans and project specifications accomplished by her private contractor at an estimated cost of P60,000.00. The plans and specifications were approved, but Tantoco insisted that the mausoleum be built by it or its agents at a minimum cost of P100,000.00 as provided in Rule 69 of the Rules and Regulations the SFMPI issued on May 25, 1972. The total amount excluded certain specific designs in the approved plan which if included would cost Dio much more. In a letter^[4] dated October 13, 1986, Dio, through counsel, demanded that she be allowed to construct the mausoleum within 10 days, otherwise, she would be impelled to file the necessary action/s against SFMPI and Tantoco.

On October 17, 1986, SFMPI wrote Dio informing her that under Rule 69 of SFMPI Rules and Regulations, she was prohibited from engaging an outside contractor for the construction of buildings, improvements and memorials. A lot owner was only allowed to submit a preferred design as long as it is in accordance with park standards.

On December 23, 1986, Dio filed a Complaint for Injunction with Damages^[5] against SFMPI and Tantoco before the RTC of Lucena City. She averred that she was not aware of Rule 69 of the SFMPI Rules and Regulations; the amount of P100,000.00 as construction cost of the mausoleum was unconscionable and oppressive. She prayed that, after trial, judgment be rendered in her favor, granting a final injunction perpetually restraining defendants from enforcing the invalid Rule 69 of SFMPI's "Rules for Memorial Work in the Mausoleum of the Park" or from refusing or preventing the construction of any improvement upon her property in the park.^[6] The court issued a cease and desist order against defendants.

In their answer with counterclaim, defendants averred that the construction of a mausoleum on plaintiff's lot at a minimum cost of P100,000.00 was not oppressive and unconscionable. They averred that the estimated amount was commensurate to the plan and specified expensive materials to be used in the construction from which defendants did not expect any unreasonable gain. They stressed that Rule 69 was made in good faith and was adopted prior to plaintiff's purchase of the lot in question. They insisted that plaintiff was aware of the existence of Rule 69 when the Pre-Need Purchase Agreement and Deed of Sale was executed, that plaintiff made no protest thereto, and was therefore estopped from questioning its application and enforcement.

Plaintiff testified that when she bought the memorial lot from defendant, she transferred the remains of her father and husband on the said property. In August 1974, her daughter Serconsicion died and was likewise buried in the memorial lot.^[7] She narrated that she wanted a mausoleum to be constructed over the niches of her loved ones to protect the remains of her dead relatives. She requested Engr. Alex Tan to prepare a plan for a mausoleum. The blueprint for the mausoleum was estimated at P60,000.00. Thereafter, plaintiff informed defendant Tantoco of her intention to build a mausoleum on her lot. Tantoco retorted that plaintiff could not hire an outside contractor to build a mausoleum.^[8] Plaintiff was initially surprised by Tantoco's statement because she knew that their contract did not provide for such stipulation. Tantoco then offered to construct the mausoleum but at the lowest cost

of P100,000.00, excluding the stainless name and the Coloroof.^[9] She also testified that when she bought the lot on December 11, 1973, the agreement was that she would cause the construction of the niche and all improvements necessary for the tombs. When asked by the court if the witness had read the rules and regulations stated in the Pre-Need Purchase Agreement and the Deed of Sale and Certificate of Perpetual Care, she answered in the negative.^[10]

Plaintiff presented National Bureau of Investigation (NBI) Document Examiner Bienvenido Albacea to prove that the rules and regulations of SFMPI were not yet in existence on May 25, 1972. The witness declared that, as a document examiner since 1976, he examines documents being questioned to determine their authenticity and source. Papers are likewise examined to check if there is any forgery, and photographed to compare the original from the photocopy. He declared that he conducted a laboratory examination and analysis of the original of the rules and regulations of defendant and subjected the same under stereoscopic microscope. He used measuring test plates to calibrate the size of the typewriter, the horizontal and vertical pitch and slots of the typewriter used in the document. He concluded that the date "May 25, 1972" was an intercalation on page one of defendant's rules and regulations and were not typed in one and the same occasion as the other provisions on the document.^[11]

On cross-examination, Albacea admitted that it was possible that the date "May 25, 1972" was typed on the same day when the other entries in the rules and regulations were typed. He also admitted that the date could have been typed after the whole page one was removed from the typewriter.^[12] He produced test plates, a photograph enlargement, and the laboratory analysis result of the original specimens, as well as the carbon duplicate of SFMPI Rules and Regulations.

On August 3, 1995, the trial court rendered judgment in favor of defendants.^[13] The dispositive portion of the decision reads:

WHEREFORE, premises considered, this Court hereby renders Judgment against the plaintiff and in favor of the defendants. Consequently, [the] instant Complaint is hereby DISMISSED.

No pronouncement on award of damages could be made as the same has not been sufficiently proven.

SO ORDERED.^[14]

The trial court rejected the claim of plaintiff that defendants failed to inform her of the rules and regulations of SFMPI. The court declared that she even informed them of her intention to construct a mausoleum. According to the court a *quo*, this was proof that plaintiff was fully aware of the rules and regulations of the memorial park; otherwise, she would not have sought the permission of defendants of her intention to build a mausoleum. Plaintiff was obliged to abide by the terms and conditions of the Pre-Need Purchase Agreement and the Deed of Sale and the rules and regulations issued by defendant SFMPI.

On appeal, the CA affirmed the decision of the trial court.^[15] The appellate court ratiocinated that when the parties executed the Pre-Need Purchase Agreement, Dio

agreed to be bound not only by the existing rules and regulations for the use and governance of the cemetery, but also future ones.

Aggrieved, Dio, now petitioner, filed the present petition for review on *certiorari*, alleging that:

- I. THE APPELLATE COURT ERRED IN RULING THAT THE DATE "MAY 25, 1972" COULD NOT HAVE BEEN A BELATED ATTEMPT TO SHOW THAT RULE 69 WAS ADOPTED PRIOR TO PETITIONER'S PURCHASE OF THE MEMORIAL LOT BECAUSE IT WAS POSSIBLE THAT SAID DATE COULD HAVE BEEN TYPED RIGHT AFTER THE DOCUMENT CONTAINING RULE 69 WAS PREPARED.
- II. THE APPELLATE COURT ERRED IN RULING THAT PETITIONER WAS BOUND NOT ONLY BY RULES EXISTING AT THE TIME OF THE PURCHASE OF THE MEMORIAL LOT BUT ALSO BY THOSE THAT MAY BE ADOPTED BY RESPONDENTS AFTER THE PURCHASE.
- III. THE APPELLATE COURT ERRED IN RULING THAT PETITIONER WAS BOUND BY THE RULES BECAUSE SHE VOLUNTARILY ENTERED INTO THE SALE AND PURCHASE OF THE MEMORIAL LOT.
- IV. THE APPELLATE COURT ERRED IN SUSTAINING THE VALIDITY OF RULE 69 DESPITE THE FACT THAT IT WAS VOID FOR BEING CONTRARY TO LAW, MORALS, PUBLIC ORDER, AND PUBLIC POLICY.
- V. THE APPELLATE COURT ERRED IN NOT ORDERING RESPONDENTS TO PAY PETITIONER DAMAGES AS PRAYED FOR IN HER COMPLAINT AND PROVED DURING THE TRIAL.^[16]

The issues are whether or not petitioner had knowledge of Rule 69 of SFMPI Rules and Regulations for memorial works in the mausoleum areas of the park when the Pre-Need Purchase Agreement and the Deed of Sale was executed; and whether the said rule is valid and binding upon petitioner.

Petitioner argues that respondents failed to prove that respondent SFMPI approved the rules and regulations on May 25, 1972, before she purchased the lot. Petitioner avers that as testified to by NBI Document Examiner Albacea, the rules and regulations were not drafted on May 25, 1972. In any event, she never consented to comply with the memorial park rules and regulations, and all amendments, additions, and modifications thereto. Petitioner further avers that the questioned Rule 69 is unreasonable and oppressive, therefore, void for being contrary to law, morals, public order, and public policy. Petitioner additionally denies being in estoppel as she never made any admission or representation in the contracts she signed, which, according to petitioner, were both contracts of adhesion.

Respondents, on the other hand, contend that petitioner's plea for injunction had become moot and academic because petitioner had already caused the completion of said mausoleum as early as July 8, 1997, in patent violation of the trial and appellate courts' orders to cease and desist construction. Moreover, petitioner presented NBI Document Examiner Albacea as a witness, and is thus barred from assailing the probative weight thereof. Respondents maintain that the Pre-Need Purchase Agreement as well as the Deed of Sale and Certificate of Perpetual Care

are not contracts of adhesion, and petitioner could have easily refused to enter into said contracts if she truly had concerns regarding any of the stipulations therein. Rule 69 of the SFMPI Rules and Regulations does not permanently deprive the owners of their right to use their own property; hence, the rule is not oppressive or unconscionable.

The petition is denied for lack of merit.

Time and again the Court has emphasized that findings of facts of lower courts, particularly when affirmed by the appellate court, are deemed final and conclusive. The Supreme Court cannot go over such findings on appeal, especially when they are borne out by the records or are based on substantial evidence. It is not the function of this Court to analyze or weigh the evidence all over again, unless there is a showing that the findings of the lower court are entirely devoid of support or are glaringly erroneous as to constitute palpable error or grave abuse of discretion.^[17]

The reason for the rule is that the trial court is in a better position to examine the demeanor of the witnesses while testifying. Our jurisdiction is in principle limited to reviewing errors of law that might have been committed by the CA. *A fortiori*, as in this case, where the factual findings of the trial court are affirmed *in toto* by the CA, there is great reason for not disturbing such findings and for regarding them as not reviewable by this Court.^[18] There are also settled exceptions to this rule: (1) when the factual findings of the CA and the trial court are contradictory; (2) when the conclusion is a finding grounded entirely on speculation, surmises, or conjectures; (3) when the inference made by the CA from its findings of fact is manifestly mistaken, absurd, or impossible; (4) when there is a grave abuse of discretion in the appreciation of facts; (5) when the appellate court, in making its findings, went beyond the issues of the case and such findings are contrary to the admissions of both appellant and appellee; (6) when the judgment of the CA is premised on a misapprehension of facts; (7) when the CA failed to notice certain relevant facts which, if properly considered, would justify a different conclusion; (8) when the findings of fact are themselves conflicting; (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and (10) when the findings of fact of the CA are premised on the absence of evidence but such findings are contradicted by the evidence on record.^[19] In the case at bar, none of these exceptions is present which would warrant a review of the factual findings of the courts below.

Under the Pre-Need Purchase Agreement executed by petitioner and respondents, the parties covenanted that upon the completion of all payments by the purchaser, the seller would convey to the purchaser a certificate of ownership to the aforesaid interment property for the interment of human remains only. The certificate of SFMPI now existing or which may hereafter be adopted for the government of said cemetery and said certificate shall be in the form used by the seller, a copy of which petitioner acknowledged she had examined and approved. Petitioner agreed to abide by all such rules and regulations governing SFMPI,^[20] among them Rule 69 which prevents lot owners from "contract[ing] other contractors for the construction of the said buildings and memorial" but gives the owners free rein "to give their own design for the mausoleum to be constructed, as long as it is in accordance with the park standards."