



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LYDIA LAVAREZ, G.R. No. 206103
MARGARITA LAVAREZ,
WILFREDO LAVAREZ,
GREGORIO LAVAREZ, Present:
LOURDES LAVAREZ- NORLIE
SALVACION, NORLIE
LAVAREZ,* G.J. LAVAREZ, CARPIO, J., Chairperson,
GIL LAVAREZ, and GAY PERALTA,
NATALIE LAVAREZ, MENDOZA,**
LEONEN, and
MARTIRES, JJ.

GODOFREDO LAVAREZ,
LETICIA LAVAREZ, LUIS
LAVAREZ, REMEDIOS V. Promulgated:
ZABALLERO, JOSEPHINE V.
ZABALLERO FERNANDO V.
ZABALLERO, VALENTA V.
ZABALLERO, MILAGROS Z.
VERGARA, VALETA Z.
REYES, AMADO R.
ZABALLERO, EMMANUEL R.
ZABALLERO, and
FLORENTINO R.
ZABALLERO,
Petitioners,

29 MAR 2017
M. Cabalag

- versus -

ANGELES S. GUEVARRA,
AUGUSTO SEVILLA, JR.,
ASTERIA S. YRA, ANTONIO
SEVILLA, ALBERTO
SEVILLA, ADELINA S.
ALVAREZ, ARISTEO SEVILLA
and the REGISTER OF DEEDS
OF LUCENA CITY,
Respondents.

X-----X

* Named Norlie Bibiera in the Complaint dated September 20, 1996 received by the RTC, Quezon City on October 16, 1996 ; *rollo*, pp. 71-84.
** On Wellness Leave.

DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari* assailing the Decision¹ of the Court of Appeals (CA) dated August 15, 2012 and its Resolution² dated February 25, 2013 in CA-G.R. CV No. 95543 which partly granted the appeal from the Decision³ of the Regional Trial Court (RTC) of Lucena City, Branch 53, dated May 26, 2010 in Civil Case No. 1996-159.

The facts of the case at bar, as shown in the records, are as follows:

Rebecca Zaballero, Romulo Zaballero, Amando Zaballero, Raquel Zaballero-Sevilla, and Ramon Lavarez are siblings, the latter being a son from a former marriage. On June 7, 1996, Rebecca died intestate and without any issue, leaving several properties to be settled among her nearest kins – the sons and daughters of her siblings – who later became the parties in this case.

On October 16, 1996, Lydia Lavarez, Godofredo Lavarez, Lourdes Lavarez, Guido Lavarez, Norlie Bibiera, Gregorio Lavarez, Leticia Lavarez, Margarita Lavarez, Wilfredo Lavarez, Luis Lavarez, Remedios V. Zaballero, Josephine V. Zaballero, Fernando V. Zaballero, Valenta V. Zaballero, Milagros Z. Vergara, Valeta Z. Reyes, Amado R. Zaballero, Emmanuel R. Zaballero, and Florentino Zaballero filed an action for reconveyance, partition, accounting, and nullification of documents, with damages, against respondents Angeles S. Guevarra, Augusto Sevilla, Jr., Asteria S. Yra, Antonio Sevilla, Alberto Sevilla, Adelina S. Alvarez, and Aristeo Sevilla.

For their defense, respondents alleged that there was nothing to partition since they were not aware of any real or personal properties which their aunt Rebecca had left behind. Said properties which were included in the complaint had already been validly donated to them by Rebecca, resulting to new Certificates of Title being issued in their names. Also, Guevarra claimed that she never took over the management and administration of Rebecca's properties so she could not be compelled to render an accounting of the income of said properties.

¹ Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Amy Lazaro-Javier and Rodil V. Zalameda; concurring; *rollo*, pp. 35-49.

² *Id.* at 63-64.

³ Penned by Judge Rodolfo D. Obnamia, Jr.; *id.* at 195-209.



On May 26, 2010, the Lucena RTC granted the complaint, thus:

WHEREFORE, of the foregoing, the Court orders:

1. Defendant Angeles S. Guevarra, as the administratrix of the late Rebecca Zaballero's property, to render an accounting how she managed the said properties of her principal, including but not limited, to income and expenses therefrom, bank deposits, from the time it came to her possession up to the filing of this case in Court on October 16, 1996.

2. Declaring the deeds of donation enumerated under page 3 of this decision, executed by Rebecca Zaballero, in favor of the defendants, a nullity for being tainted with vices of consent and reverting the same to the estate of the late Rebecca Zaballero.

3. Defendant Register of Deeds of Lucena City to cancel the said titles thereon under the names of the defendants to be partitioned by and between the parties in this case in accordance with law.

SO ORDERED.⁴

Therefore, respondents elevated the case to the CA. On August 15, 2012, the appellate court partly granted the appeal and sustained the validity of the subject Deeds of Donation, to wit:

WHEREFORE, premises considered, the instant appeal is **PARTLY GRANTED**. The assailed Deeds of Donation executed in May 1993 by deceased Rebecca Zaballero in favor of defendants-appellants are declared valid.

Defendant-appellant Angeles S. Guevarra is ordered to render an accounting on how she managed the real and personal properties of Rebecca Zaballero, from the time she took possession of the same up to the filing of the case on October 16, 1996.

SO ORDERED.⁵

Petitioners filed a motion for partial reconsideration, but the same was denied.⁶ Of the original plaintiffs, only Lydia Lavarez, Margarita Lavarez, Wilfredo Lavarez, Gregorio Lavarez, Lourdes Lavarez-Salvacion, Norlie Lavarez, G.J. Lavarez, Gil Lavarez, and Gay Natalie Lavarez filed the instant petition.

The sole question in the instant case is whether or not Rebecca, on May 12, 1993, possessed sufficient mentality to make the subject deeds of donation which would meet the legal test regarding the required capacity to dispose.

⁴ *Id.* at 209.

⁵ *Id.* at 48-49. (Emphasis in the original)

⁶ *Id.* at 63-64.

Basic is the rule of *actori incumbit onus probandi*, or the burden of proof lies with the plaintiff. In other words, upon the plaintiff in a civil case, the burden of proof never parts. Therefore, petitioners must establish their case by a preponderance of evidence, that is, evidence that has greater weight, or is more convincing than that which respondents offered in opposition to it. In civil cases, the one who alleges a fact has the burden of proving it and a mere allegation is not evidence.⁷

A donation is an act of liberality whereby a person disposes a thing or right gratuitously in favor of another, who, in turn, accepts it. Like any other contract, agreement between the parties must exist. Consent in contracts presupposes the following requisites: (1) it should be intelligent or with an exact notion of the matter to which it refers; (2) it should be free; and (3) it should be spontaneous. The parties' intention must be clear and the attendance of a vice of consent, like any contract, renders the donation voidable. In order for a donation of property to be valid, what is crucial is the donor's capacity to give consent at the time of the donation. Certainly, there lies no doubt in the fact that insanity or unsoundness of the disposing mind impinges on consent freely given. However, the burden of proving such incapacity rests upon the person who alleges it. If no sufficient proof to this effect is presented, capacity will be presumed.⁸ Here, however, petitioners succeeded in discharging said heavy burden.

It is the contention of respondents that Rebecca still had full control of her mind during the execution of the deeds. The fact that she was already of advanced age at that time or that she had to rely on respondents' care did not necessarily prove that she could no longer give consent to a contract.

To determine the intrinsic validity of the deed of donation subject of the action for annulment, Rebecca's mental state/condition at the time of its execution must be taken into account. Factors such as age, health, and environment, and the intricacy of the document in question, among others, should be considered. Rebecca's doctor during her lifetime, Dr. Bernardo Jorge Conde, who was presented as an expert witness, testified that Rebecca had been suffering from dementia, which was more or less permanent, and had been taking medications for years. The records would show that Rebecca lived in the family's ancestral house with respondents, and the old lady was dependent on their care, specifically that of Guevarra. During the execution of the deeds in question on May 12, 1993, Rebecca was already 75 years old, and was confined at the Philippine Heart Center in Quezon City. On June 7, 1996, she finally passed away.

⁷ *Heirs of Cipriano Reyes v. Calumpang, et al.*, 536 Phil. 795, 811 (2006).

⁸ *Catalan v. Basa*, 555 Phil. 602, 611 (2007).

The Deeds of Donation in favor of respondents likewise cover several properties of varying sizes, to wit:

1. a land (483 square meters) at *Barangay (Brgy.)* Gulang Gulang, Lucena under Transfer Certificate of Title (*TCT*) No. T-79056;
2. a property (33,424 square meters) at Brgy. Dumacaa, Lucena under TCT No. T-80090;
3. a land (4,611 square meters) in Lucena under TCT No. T-80091;
4. a land (9,456 square meters) in Lucena under TCT No. T-80092;
5. a property (34,376 square meters) in Lucena under TCT No. T-80086;
6. a property (17,448 square meters) under TCT No. T-80087;
7. a land (2,672 square meters) in Lucena under TCT No. T-80088;
8. a land (25,469 square meters) in Lucena under TCT No. T-80089;
9. a property (36,677 square meters) in Lucena under TCT No. T-80093; and
10. a land (13,488 square meters) in Lucena under TCT No. T-82430.

Putting together the abovementioned circumstances, that at the time of the execution of the Deeds of Donation covering numerous properties, Rebecca was already at an advanced age of 75, afflicted with dementia, not necessarily in the pinkest of health since she was then, in fact, admitted to the hospital, it can be reasonably assumed that the same had the effects of impairing her brain or mental faculties so as to considerably affect her consent, and that fraud or undue influence would have been employed in order to procure her signature on the questioned deeds. The correctness of the trial court's findings therefore stands untouched, since respondents never provided any plausible argument to have it reversed, the issue of the validity of donation being fully litigated and passed upon by the trial court.⁹

Petitioners claim, as confirmed by Dr. Conde, that the unsoundness of the mind of the donor was the result of senile dementia. This is the form of mental decay of the aged upon which wills or donations are most often contested. Senile dementia, usually called childishness, has various forms and stages. To constitute complete senile dementia, there must be such failure of the mind as to deprive the donor of intelligent action. In the first stages of the disease, a person may still possess reason and have will power.¹⁰ It is a form of mental disorder in which cognitive and intellectual functions of the mind are prominently affected; impairment of memory is early sign. Total recovery is not possible since organic cerebral disease is

⁹ *Heirs of Dr. Favis v. Gonzales*, 724 Phil. 465, 479 (2014).

¹⁰ *Torres v. Lopez*, 48 Phil. 772 (1926).



involved.¹¹ It is likewise the loss, usually progressive, of cognitive and intellectual functions, without impairment of perception or consciousness, caused by a variety of disorders including severe infections and toxins, but most commonly associated with structural brain disease. It is characterized by disorientation, impaired memory, judgment and intellect, and a shallow labile effect.¹²

As to Dr. Conde's expert opinion, it is settled that the testimony of expert witnesses must be construed to have been presented not to sway the court in favor of any of the parties, but to assist the court in the determination of the issue before it.¹³ Although courts are not ordinarily bound by expert testimonies, they may place whatever weight they may choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, the fact that he might be a paid witness, the relative opportunities for study and observation of the matters about which he testifies, and any other matters which deserve to illuminate his statements. The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect. The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling on such is not reviewable in the absence of abuse of discretion.¹⁴

To support its ruling in favor of the validity of the deeds of donation, the CA cited the cases of *Catalan v. Basa*¹⁵ and *Carrillo v. Jaojoco*.¹⁶ In *Catalan*, the Court upheld the validity of the donation although the donor had been suffering from schizophrenia. In *Carrillo*, the contract of sale was upheld despite the seller having been declared mentally incapacitated after only nine (9) days from the execution of said contract. It is important to note, however, that in both cases, the Court merely sustained the rulings of the trial courts, which had been in a better position to appreciate the weight and value of the evidence and testimonies of the witnesses who had personally appeared before them.¹⁷

¹¹ Black's Law Dictionary (5th ed., 1979), p. 387.

¹² RTC Decision; *rollo*, p. 205; citing Stedman's Medical Dictionary for the Health Professions and Nursing (5th ed.), p. 389.

¹³ *People v. Basite*, 459 Phil. 197, 206 (2003).

¹⁴ *Judge Paje v. Hon. Casiño*, G.R. No. 207257, February 3, 2015, 749 SCRA 39, 118.

¹⁵ *Supra* note 8.

¹⁶ 46 Phil. 957 (1924).

¹⁷ *People v. CA*, G.R. No. 183652, February 25, 2015, 751 SCRA 675, 708.

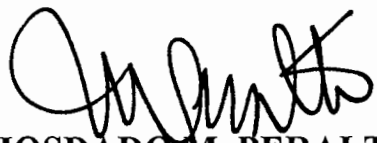


Findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, without a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored. Absent any clear showing of abuse, arbitrariness, or capriciousness committed by the lower court, its findings of facts are binding and conclusive upon the Court.¹⁸ Settled is the rule that in assessing the credibility of witnesses, the Court gives great respect to the evaluation of the trial court for it had the unique opportunity to observe the demeanor of witnesses and their deportment on the witness stand, an opportunity that is unavailable to the appellate courts, which simply rely on the cold records of the case. The assessment by the trial court is even conclusive and binding if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.¹⁹ Here, the CA failed to show any presence of abuse, arbitrariness, or any clear disregard of evidence on the part of the trial court when it gave full credence to Dr. Conde's expert opinion.


Thus, after an extensive examination of the records of the instant case, the Court finds no cogent reason to depart from the lower court's conclusion that Rebecca Zaballero, on May 12, 1993, could not have had full control over her mental faculties so as to render her completely capable of executing a valid Deed of Donation.

WHEREFORE, IN VIEW OF THE FOREGOING, the Court **GRANTS** the petition and **REINSTATES** the Decision of the Regional Trial Court of Lucena City, Branch 53, dated May 26, 2010 in Civil Case No. 1996-159.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

¹⁸ *Uyboco v. People*, G.R. No. 211703, December 10, 2014, 744 SCRA 688, 692.

¹⁹ *Cosme v. People*, 538 Phil. 52, 66 (2006).

On Wellness Leave
JOSE CATRAL MENDOZA
Associate Justice



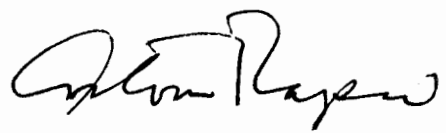
MARVIC M.V.F. LEONEN
Associate Justice



SAMUEL R. MARTIRES
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice