



Republic of the Philippines  
**SUPREME COURT**  
 Manila

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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

MAR 15 2018

**THIRD DIVISION**

**LILIA S. DUQUE and HEIRS OF  
 MATEO DUQUE, namely: LILIA S.  
 DUQUE, ALMA D. BALBONA,  
 PERPETUA D. HATA, MARIA  
 NENITA D. DIENER, GINA D.  
 YBAÑEZ, and GERVACIO S.  
 DUQUE,**

Petitioners,

- versus -

**G.R. No. 226130**

Present:

VELASCO, JR., *J.*, Chairperson,  
 BERSAMIN,  
 LEONEN,  
 MARTIRES, and  
 GESMUNDO, *JJ.*

**SPOUSES BARTOLOME D. YU,  
 JR. and JULIET O. YU and DELIA  
 DUQUE CAPACIO,**

Respondents.

Promulgated:

February 19, 2018

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**DECISION**

**VELASCO, JR., J.:**

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assails the Decision<sup>1</sup> and the Resolution<sup>2</sup> dated September 30, 2014 and July 14, 2016, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 04197.

The facts are undisputed.

The herein petitioner Lilia S. Duque and her late husband, Mateo Duque (Spouses Duque), were the lawful owners of a 7,000-square meter lot in Lambug, Badian, Cebu, covered by Tax Declaration (TD) No. 05616 (subject property). On August 28, 1995, Spouses Duque allegedly executed a Deed of Donation over the subject property in favor of their daughter, herein respondent Delia D. Capacio (Capacio), who, in turn, sold a portion thereof, *i.e.*, 2,745 square meters, to her herein co-respondents Spouses Bartolome D. Yu, Jr. and Juliet O. Yu (Spouses Yu).<sup>3</sup>

<sup>1</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla, concurring, *rollo*, pp. 47-54.

<sup>2</sup> Penned by Associate Justice Gabriel T. Ingles with Associate Justices Edward B. Contreras and Gabriel T. Robeniol, concurring, *id.* at 57-60.

<sup>3</sup> *Id.* at 48.

With that, Spouses Duque lodged a **Verified Complaint for Declaration of Non-Existence and Nullity of a Deed of Donation and Deed of Absolute Sale and Cancellation of TD** (Complaint) against the respondents before the Regional Trial Court (RTC) of Barili, Cebu, docketed as Civil Case No. CEB-BAR-469, claiming that the signature in the Deed of Donation was forged. Spouses Duque then prayed (1) to declare the Deeds of Donation and of Absolute Sale null and void; (2) to cancel TD No. 01-07-05886 in the name of respondent Juliet Yu (married to respondent Bartolome Yu); and (3) to revive TD No. 05616 in the name Mateo Duque (married to petitioner Lilia Duque).<sup>4</sup>

In her Answer, respondent Capacio admitted that the signature in the Deed of Donation was, indeed, falsified but she did not know the author thereof. Respondents Spouses Yu, for their part, refuted Spouses Duque's personality to question the genuineness of the Deed of Absolute Sale for it was their daughter who forged the Deed of Donation. They even averred that Spouses Duque's action was already barred by prescription.<sup>5</sup>

On September 26, 2008, a Motion for Admission by Adverse Party under Rule 26 of the Rules of Court (Motion for Admission) was filed by respondents Spouses Yu requesting the admission of these documents: (1) Real Estate Mortgage (REM); (2) **Deed of Donation**; (3) Contract of Lease; (4) TD No. 07-05616; (5) TD No. 14002-A; (6) **Deed of Absolute Sale**; and (7) **TD No. 01-07-05886**. In an Order dated October 3, 2008,<sup>6</sup> Spouses Duque were directed to comment thereon but they failed to do so. By their silence, the trial court, in an Order dated November 24, 2008,<sup>7</sup> pronounced that they were deemed to have admitted the same.<sup>8</sup>

Thus, during trial, instead of presenting their evidence, respondents Spouses Yu moved for demurrer of evidence in view of the aforesaid pronouncement. Spouses Duque vehemently opposed such motion. In an Order dated January 5, 2011,<sup>9</sup> the trial court granted the demurrer to evidence and, thereby, dismissed the Complaint. Spouses Duque sought reconsideration, which was denied in an Order dated September 21, 2011.<sup>10</sup>

On appeal, the CA, in its now assailed Decision dated September 30, 2014, affirmed *in toto* the aforesaid Orders. It agreed with the trial court that Spouses Duque's non-compliance with the October 3, 2008 Order resulted in the implied admission of the Deed of Donation's authenticity, among other documents. Notably, Spouses Duque did not even seek reconsideration thereof. With such admission, the trial court ruled that Spouses Duque have nothing more to prove or disprove and their entire evidence has been

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<sup>4</sup> Id., id. at 20.

<sup>5</sup> Id. at 48-49.

<sup>6</sup> Penned by Presiding Judge Leopoldo V. Cañete, id. at 119.

<sup>7</sup> Id. at 120.

<sup>8</sup> Id. at 49.

<sup>9</sup> Id. at 121-124.

<sup>10</sup> Id.

rendered worthless.<sup>11</sup> Spouses Duque moved for reconsideration but was denied for lack of merit in the questioned CA Resolution dated July 14, 2016. Meanwhile, in view of Mateo Duque's demise, his heirs substituted for him as petitioners in this case.

Hence, this petition imputing errors on the part of the CA (1) in holding that petitioners' failure to reply to the request for admission is tantamount to an implied admission of the authenticity and genuineness of the documents subject thereof; and (2) in not ruling that the dismissal of the petitioners' Complaint based on an improper application of the rule on implied admission will result in unjust enrichment at the latter's expense.<sup>12</sup>

The petition is impressed with merit.

The scope of a request for admission under Rule 26 of the Rules of Court and a party's failure to comply thereto are respectively detailed in Sections 1 and 2 thereof, which read:

SEC. 1. *Request for admission.* — At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished.

SEC. 2. *Implied admission.* — Each of the matters of which an admission is requested **shall be deemed admitted unless**, within a period designated in the request, which shall not be less than fifteen (15) days after service thereof, or within such further time as the court may allow on motion, **the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.**

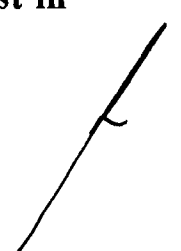
Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (Emphases supplied.)

Clearly, once a party serves a request for admission as to the truth of any material and relevant matter of fact, the party to whom such request is served has 15 days within which to file a sworn statement answering it. **In case of failure to do so, each of the matters of which admission is requested shall be deemed admitted.** This rule, however, admits of an exception, that is, **when the party to whom such request for admission is served had already controverted the matters subject of such request in**

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<sup>11</sup> Id. at 51-52.

<sup>12</sup> Id. at 24-25.



**an earlier pleading.** Otherwise stated, if the matters in a request for admission have already been admitted or denied in previous pleadings by the requested party, the latter cannot be compelled to admit or deny them anew. **In turn, the requesting party cannot reasonably expect a response to the request and, thereafter, assume or even demand the application of the implied admission rule in Section 2, Rule 26.**<sup>13</sup> The rationale is that “admissions by an adverse party as a mode of discovery contemplates of interrogatories that would clarify and tend to shed light on the truth or falsity of the allegations in a pleading, and does not refer to a mere reiteration of what has already been alleged in the pleadings; or else, it constitutes an utter redundancy and will be a useless, pointless process which petitioner should not be subjected to.”<sup>14</sup>

Here, the respondents served the request for admission on the petitioners to admit the genuineness and authenticity of the Deed of Donation, among other documents. But as pointed out by petitioners, the matters and documents being requested to be admitted have already been denied and controverted in the previous pleading, that is, Verified Complaint for Declaration of Non-Existence and Nullity of a Deed of Donation and Deed of Absolute Sale and Cancellation of TD. In fact, the forgery committed in the Deed of Donation was the very essence of that Complaint, where it was alleged that being a forged document, the same is invalid and without force and legal effect. Petitioners, therefore, need not reply to the request for admission. Consequently, they cannot be deemed to have admitted the Deed of Donation’s genuineness and authenticity for their failure to respond thereto.

Moreover, in respondents Spouses Yu’s criminal case for estafa<sup>15</sup> against respondent Capacio, which they filed immediately upon receipt of a summon in relation to the Complaint of Spouses Duque, one of the allegations therein was the forgery committed in the very same Deed of Donation, which authenticity and genuineness they want petitioners to admit in their request for admission. In support thereof, respondents Spouses Yu even utilized the questioned document report of the Philippine National Police (PNP) Regional Crime Laboratory Office certifying that the signature in the Deed of Donation is a forgery. Thus, it is then safe to conclude that their request for admission is a sham.

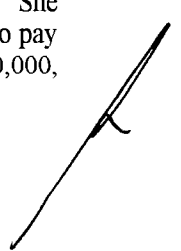
Having said that there was no implied admission of the genuineness and authenticity of the Deed of Donation, this Court, thus, holds that it was also an error for the trial court to grant the demurrer to evidence.

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<sup>13</sup> *Metro Manila Shopping Mecca Corp. v. Toledo*, G. R. No. 190818, June 5, 2013, 697 SCRA 425.

<sup>14</sup> *Id.*, citing *CIR v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005, which cited *Concrete Aggregates Corporation v. CA*, 334 Phil. 77 (1997)

<sup>15</sup> Respondents Spouses Yu won in this case. Respondent Capacio was convicted of estafa. She was sentenced to a prison term of 2 months, as minimum, to 4 months, as maximum, and was made to pay a fine of ₱50,000. She was further ordered to pay respondents Spouses Yu the amount of ₱250,000, representing the purchase price of a portion of the subject property.



To recapitulate, the demurrer to evidence was anchored on the alleged implied admission of the Deed of Donation's genuineness and authenticity. The trial court granted the demurrer holding that with the said implied admission, respondents Spouses Yu's claim became undisputed and Spouses Duque have nothing more to prove or disprove. This is despite its own findings that the opinion of the handwriting expert and the Answer of respondent Capacio, both confirmed the fact of forgery. The trial court easily disregarded this on account of the said implied admission. The CA, on appeal, affirmed the trial court.

But in view of this Court's findings that there was no implied admission to speak of, the demurrer to evidence must, therefore, be denied and the Orders granting it shall be considered void.

Section 1, Rule 33 of the Rules of Court provides for the consequences of a reversal on appeal of a demurrer to evidence, thus:

SECTION 1. *Demurrer to evidence.* After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied, he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

Citing *Generoso Villanueva Transit Co., Inc. v. Javellana*,<sup>16</sup> this Court in *Radiowealth Finance Company v. Spouses Del Rosario*<sup>17</sup> explained the consequences of a demurrer to evidence in this wise:

The rationale behind the rule and doctrine is simple and logical. The defendant is permitted, without waiving his right to offer evidence in the event that his motion is not granted, to move for a dismissal (*i.e.*, demur to the plaintiff's evidence) on the ground that upon the facts as thus established and the applicable law, the plaintiff has shown no right to relief. If the trial court *denies* the dismissal motion, *i.e.*, finds that plaintiff's evidence is sufficient for an award of judgment in the absence of contrary evidence, the case still remains before the trial court which should then proceed to hear and receive the defendant's evidence so that all the facts and evidence of the contending parties may be properly placed before it for adjudication as well as before the appellate courts, in case of appeal. Nothing is lost. The doctrine is but in line with the established procedural precepts in the conduct of trials that the trial court liberally receive all proffered evidence at the trial to enable it to render its decision with all possibly relevant proofs in the record, thus assuring that the appellate courts upon appeal have all the material before them necessary to make a correct judgment, and avoiding the need of remanding the case for retrial or reception of improperly excluded evidence, with the possibility thereafter of still another appeal, with all the concomitant delays. The rule, however, imposes the condition by the same token that if his demurrer is granted by the trial court, and the order of dismissal is reversed on appeal, the movant loses his right to present evidence in his behalf and he shall have been deemed to have elected to stand on the

<sup>16</sup> No. L-29467, June 30, 1970, 33 SCRA 755, 761-762.

<sup>17</sup> G.R. No. 138739, July 6, 2000, 335 SCRA 288.

insufficiency of plaintiffs case and evidence. In such event, the appellate court which reverses the order of dismissal shall proceed to render judgment on the merits on the basis of plaintiffs evidence. (Underscoring in the original, italics partly in the original and partly supplied.)

In short, defendants who present a demurrer to the plaintiffs' evidence retain the right to present their own evidence, if the trial court disagrees with them; if it agrees with them, but on appeal, the appellate court disagrees and reverses the dismissal order, the defendants lose the right to present their own evidence. The appellate court shall, in addition, resolve the case and render judgment on the merits, inasmuch as a demurrer aims to discourage prolonged litigations.<sup>18</sup>

With this Court's denial of the demurrer to evidence, it will now proceed to rule on the merits of the Complaint solely on the basis of the petitioners' evidence on record.

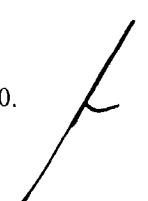
Here, it would appear from the trial court's January 5, 2011 Order that the evidence for the petitioners consists mainly of the testimony of the handwriting expert witness and the Answer of respondent Capacio, which both confirmed that the signature in the Deed of Donation was, indeed, falsified. With these pieces of evidence and nothing more, this Court is inclined to grant the petitioners' Complaint. Being a falsified document, the Deed of Donation is void and inexistent. As such, it cannot be the source of respondent Capacio's transferable right over a portion of the subject property. Being a patent nullity, respondent Capacio could not validly transfer a portion of the subject property in favor of respondents Spouses Yu under the principle of "*Nemo dat quod non habet*," which means "one cannot give what one does not have."<sup>19</sup> As a consequence, the subsequent Deed of Absolute Sale executed by respondent Capacio in favor of respondents Spouses Yu has no force and effect as the former is not the owner of the property subject of the sale contract. In effect, the tax declarations in the respective names of respondents Capacio and Juliet O. Yu are hereby ordered cancelled and the tax declaration in the name of Mateo Duque, *et al.* is ordered restored.

**WHEREFORE**, premises considered, the petition is **GRANTED**. The CA Decision and Resolution dated September 30, 2014 and July 14, 2016, respectively, in CA-G.R. CV No. 04197 are hereby **REVERSED** and **SET ASIDE** and a new judgment is hereby rendered as follows: (1) the petitioners' Complaint is hereby **GRANTED**; (2) both the Deeds of Donation and of Absolute Sale are declared **VOID**; (3) Tax Declaration Nos. 14002-A and 01-07-05886 in the names of respondents Capacio and Juliet O. Yu, respectively, are hereby **CANCELLED**; and (4) Tax Declaration No. 05616 in the name of Mateo Duque, *et al.* is hereby **RESTORED**.

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<sup>18</sup> Id.

<sup>19</sup> *Cavite Development Bank, et al. v. Spouses Lim, et al.*, G.R. No. 131679, February 1, 2000.




**SO ORDERED.**

**PRESBITERO J. VELASCO, JR.**  
Associate Justice

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
Associate Justice

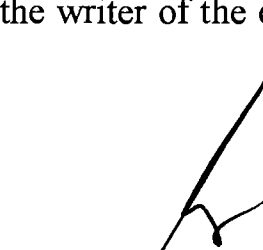
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**SAMUEL R. MARTIRES**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

**ATTESTATION**

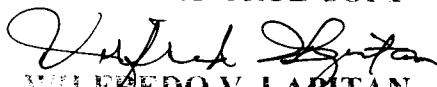
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

**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

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Division Clerk of Court  
Third Division

MAR 15 2018