



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 February 2021** which reads as follows:*

“G.R. No. 227133 (*Rose Eden Angelita Gaylan Toth v. Ligaya Reyes Gaylan, Leyne R. Gaylan, Reynolds R. Gaylan, and May Joy R. Gaylan*) — The Court finds no compelling reason to exercise its discretionary appellate jurisdiction in the present case. The Court of Appeals correctly ruled that petitioner Rose Eden Angelita Gaylan Toth (Rose Eden) failed to establish fraud through the required quantum of evidence.

Rose Eden insists that the Deed of Absolute Sale¹ dated December 2, 1981 was spurious and fraudulent. Angel Gaylan’s (Angel) medical records prove that it was impossible for him to have been at the place of execution of the document; or if at all, he would have been too physically weak to execute the same. In any case, Henry and Ligaya Gaylan forged Angel’s signature and seemed to have used another person’s thumbmark and made it appear that it was Angel’s.

We are not convinced.

First. Fraud is never presumed but must be proved by clear and convincing evidence, not mere preponderance of evidence. A party’s assertions must be supported by competent evidence and he or she must rely on its strength, not on the weakness of the opponent’s defense.²

Here, Rose Eden sought to establish fraud through two allegations: first, that it was impossible for Angel to have gone outside the hospital; and second, that his signature was a forgery and his thumbmark, fake.³ Thus, it was

¹ *Rollo*, p. 77.

² *Tankeh v. DBP*, 720 Phil. 641, 665 (2013).

³ *Rollo*, p. 34.

incumbent upon her to prove both allegations with clear and convincing evidence.⁴

During the trial, Rose Eden offered Angel's medical records but these fail to persuade. For one, these documents were not even authenticated by the individuals who supposedly executed them. Rose Eden did not even present the physicians and nurses to interpret Angel's medical records and establish the impossibility of him leaving the hospital due to his condition.

For another, the Court of Appeals correctly noted that the medical records only establish Angel's admission in the hospital, his diagnosis, and the tests done on him – nothing more.⁵ The testimony of Angel's physicians and nurses could have established the impossibility or at least improbability of Angel having gone out from the hospital during his period of confinement, but no such witness was presented here.

To be sure, confinement at the hospital has not been known to be a legal deprivation of liberty or movement. It is not up to the courts to find out or presume whether hospitals allow a patient to temporarily leave the premises to attend to personal affairs. This matter can only be established by the hospital's physicians, nurses, or other attending staff with personal knowledge of the institution's policies.

Indeed, impossibility has been accepted in our jurisprudence as *physical impossibility* that is based on distance or proximity and means.⁶ As it was, however, Rose Eden did not deny, as she in fact admitted, that Angel's home was in the same town as the hospital, mere kilometers away.⁷ Coupled with the absence of the physician or the nurse's testimony, the Court is left to conclude that it was not impossible for Angel to have gone to his house during his period of treatment.

Second. Rose Eden's allegation of forgery is trumped by the testimonies of respondents' witnesses. While the opinion of an expert witness is not indispensable to determine forgery,⁸ Rose Eden did not even bother to present one who could have helped her persuade the courts of her cause. As it was, Rose Eden offered only her own statements which were self-serving at best. Respondents, on the other hand, presented Atty. Reginaldo Conol who notarized the deed of sale himself and Yolanda Docado, witness to the document who positively identified Angel's thumbmark and signature, *viz.*:

Cross Examination of Yolanda Docado (attesting witness to the deed) by Attorney Treyes

⁴ *Riguer v. Atty. Mateo*, 811 Phil. 538, 547 (2017), citing *Tankeh v. DBP*, *id.*

⁵ *Rollo*, p. 57.

⁶ See *People v. Larranaga*, 502 Phil. 231, 243 (2005).

⁷ *Rollo*, p. 34.

⁸ See Section 49, Rule 130 of the Rules of Court, which states: Opinion of expert witness. — The opinion of a witness on a matter requiring special knowledge, skill, experience or training which he shown to possess, may be received in evidence. (43a).

- Q Mrs. Docado, could you please tell us where you were when you signed these documents, Exhibit "D"?
- A **We were at the residence of Mr. Angel Gaylan.**
- Q Do you remember when did you sign that document?
- A **December 2, 1981.**

x x x x

- Q When you arrived[,] who were the persons present at the time you saw them?
- A **Mr. Angel Gaylan, Mr. Henry Gaylan,** the two (2) persons who witness[e]d the thumb mark, Mr. Arroyo, and me.

x x x x

Direct Examination of Yolanda Docado (attesting witness to the deed) by Attorney Manayon:

- Q Mrs. Docado, the plaintiff, Rose Eden Gaylan- Toth presented before this Honorable Court this Deed of Absolute [Sale], which is now marked as plaintiff's Exhibit "D", there is a name here Yolanda Docado as one of the witnesses in this Deed of Absolute Sale marked as Exhibit "D", for the plaintiff. Do you know whose signature is this?
- A That is my signature.
- Q Mrs. Docado, there is also a signature over the typewritten name Angel Gaylan, on this Exhibit "D", which signature marked as Exhibit "D- 1", please look at this signature and tell this Honorable Court whose signature is this?
- A **That is the signature of Mr. Angel Gaylan.** xxx
- Q **Mrs. Docado, how do you know that this signature over the typewritten name of Angel Gaylan, which was just identified by you as Angel Gaylan's signature now marked as Exhibit "1-A" is the signature of Angel Gaylan?**
- A **Because I was present when he affixed his signature.**
- Q Over the same name Angel Gaylan and the signature of Angel Gaylan, which you already identified there is also a thumb mark, can you tell the Honorable Court whose thumb mark is that?
- A **That is the thumb mark of Mr. Angel Gaylan** because when he signed the document he jokingly said that his hands were shaking and his signature appears to be different from the original signature so that it would be better if he would also affixed (sic) his thumb mark.
- Q **And so you saw him affixed (sic) his thumb mark?**
- A **Yes, sir.**
(Emphases supplied)⁹

x x x x

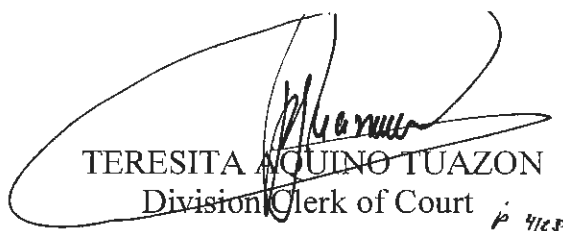
⁹ Rollo, pp. 58-60.

Curiously, the trial court did not pass upon the authenticity of the signature and thumbprint, entirely overlooking the above-cited testimony which is tantamount to misappreciation of the evidence. Thus, after a painstaking evaluation of the records, the Court of Appeals ruled that it does not share the same conclusion as the trial court.¹⁰ Neither do we.

ACCORDINGLY, the petition is **DENIED**. The Decision dated November 27, 2014 and Resolution dated July 29, 2016 of the Court of Appeals in CA-G.R. CEB CV No. 02309 are **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court
 PR 2021

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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 69
 Silay City, Negros Occidental
 (Civil Case No. 2144-69)

COURT OF APPEALS (reg)
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 Cebu City
 CA-G.R. CEB CV No. 02309

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¹⁰ *Id.* at 55.