

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

ESTATE OF: CESAR ELIAS REYES, BY
ADMINISTRATOR, ANTHONY L.
CIANFRANI

Appellee

v.

GLADYS VILLALOBOS

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 650 EDA 2012

Appeal from the Judgment Entered February 9, 2012
In the Court of Common Pleas of Philadelphia County
Civil Division at No(s): SEPTEMBER TERM, 2010, NO. 3995

BEFORE: MUNDY, J., OTT, J., and PLATT, J. *

MEMORANDUM BY MUNDY, J.:

Filed: January 3, 2013

Appellant, Gladys Villalobos, appeals from the February 9, 2012 judgment entered in favor of Appellee, Estate of Cesar Elias Reyes, by Administrator, Anthony L. Cianfrani, in this action to quiet title. After careful review, we affirm.

The trial court summarized the relevant facts of this case as follows.

After the death of Cesar Elias Reyes on July 29, 2006 Anthony Cianfrani was appointed administrator of his estate. Both mothers approved of the election of Mr. Cianfrani as administrator of Mr. Reyes'[] estate. Mr. Reyes was survived by four children between two mothers, Melissa Perez and [Appellant]. Because Mr. Reyes died intestate and

* Retired Senior Judge assigned to the Superior Court.

unmarried, the property of the estate will pass to his four children. Upon becoming administrator, Mr. Cianfrani determined that Mr. Reyes owned three properties at his death. The properties were a double property at 3321-23 B Street, property at 3316 B Street, and a garage at 4313 East Roosevelt Boulevard. [Appellant] lived at 3321-23 B Street when Mr. Reyes died. At an August 2006 meeting between the administrator and the two women, Mr. Cianfrani told [Appellant] that she was required to pay rent. [Appellant] did not agree to pay rent.

The same parties met again on September 15, 2006 at the Register of Wills office. In everyone's presence, Mr. Cianfrani told the clerk that, at his death, Mr. Reyes owned the two properties on B Street and the garage. [Appellant] did not contradict Mr. Cianfrani's statement. The administrator hired a realtor to assess the properties of the estate. [Appellant] denied the realtor access to the 3321-23 B Street property.

Two months later, on November 8, 2006, [Appellant] filed a new deed to 3321-23 B Street with the Recorder of Deeds. That deed had been purportedly signed on May 29, 2006, two months before Mr. Reyes died and five months before it was filed. The deed states that [Appellant] paid \$3,000 in consideration for the 3321-23 B Street property. The deed was purportedly notarized on June 3, 2006, four days after it was supposedly signed by Mr. Reyes. An expert report provided by each side analyzed Mr. Reyes' signature on that deed. Both [Appellee's] expert and Ms. Perez testified that the signatures on the deeds for 3321-23 B Street were not authentic.

Trial Court Opinion, 6/28/12, at 2-3 (footnotes omitted).

On October 1, 2010, Appellee filed an action to quiet title claiming the aforementioned deed was forged and should be declared void. On November 9, 2010, Appellant filed an answer denying the allegations of

Appellee's complaint and claiming that the deed was valid. This matter proceeded to a bench trial on October 6, 2011. On October 12, 2011, the trial court entered a verdict in favor of Appellee, finding that the May 29, 2006 deed filed by Appellant was "void, unenforceable, and cancelled of record." Trial Court Order, 10/12/11, at ¶ 1. On October 19, 2011, Appellant filed post-trial motion for a new trial, arguing, *inter alia*, that the trial court applied an improper standard of proof. The trial court denied Appellant's post-trial motions on January 20, 2012. On February 9, 2012, judgment was entered on the verdict in favor of Appellee, and this timely appeal followed.¹

On appeal, Appellant raises only one issue for our review.

1. Did the trial court err when it improperly applied the clear and convincing standard to the facts of this case?

Appellant's Brief at 4.

We begin by noting that,

[o]ur standard of review from an order denying a motion for a new trial is whether the trial court committed an error of law, which controlled the outcome of the case, or committed an abuse of discretion. A trial court commits an abuse of discretion when it rendered a judgment that is manifestly unreasonable, arbitrary, or capricious, has failed to apply the law, or was motivated by partiality, prejudice, bias, or ill will.

¹ Appellant and the trial court have complied with Pa.R.A.P. 1925.

Mirabel v. Morales, ___ A.3d ___, 2012 WL 5377656, 4 (Pa. Super. 2012) (citations and internal quotation marks omitted).

Herein, our careful review of the record reveals that the trial court applied the proper standard of review in this matter. In its June 28, 2012 opinion, the trial court expressly stated that it applied the clear and convincing evidence standard in determining that Cesar Reyes' signature was a forgery, and thus, the May 29, 2006 deed was void and unenforceable.

The [trial] court, as the trier of fact, finds [Appellee's] expert report and the testimony of Ms. Perez are sufficient evidence to find, by clear and convincing evidence, that Mr. Reyes did not sign the deed. Additionally, upon a detailed examination of the questioned signature compared to the exemplars, this [trial] court itself concludes that the signature was not made by Mr. Reyes. The evidence demonstrates that Mr. Reyes did not sign the deed which purported to convey property to [Appellant].

By clear and convincing evidence [Appellee] has proven that the deed offered by [Appellant] was not signed by Mr. Reyes.

Trial Court Opinion, 6/28/12, at 5-6.

This Court has long recognized that "generally, when the issue of a forgery is raised, as is the case here, the party claiming forgery has the burden of proving the existence of a forgery by clear and convincing evidence." ***De Lage Landen Services, Inc. v. Urban Partnership, LLC***, 903 A.2d 586, 590 (Pa. Super. 2006) (citations, brackets, and internal quotation marks omitted).

Furthermore, our independent review of the record supports the trial court's determination. The record reveals that neither party called the notary to testify as to the signature on the deed. The parties stipulated that it was the professional opinion of handwriting expert William Reese that Cesar Reyes' purported signature on the deed in question was not genuine. N.T., 10/6/11, at 62. Likewise, Melissa Perez, Cesar Reyes' girlfriend for 15 years, testified that she was familiar with his signature and that the signature contained in the deed was not his. *Id.* at 37, 45-46. Following consideration of Appellant's testimony and a comparison of the signature to authenticated exemplars, the trial court agreed with this assessment. *Id.* at 63-70; Trial Court Opinion, 6/28/12, at 5-6. "[B]ecause forgery presents an issue of fact, the resolution of the issue necessarily turns on the court's assessment of the witnesses' credibility." *De Lage Landen, supra.* The trial court, as fact-finder, evidentially found the testimony of Appellee's witnesses credible, and declined to believe Appellant's version of the events. We decline to disturb that credibility determination on appeal.

Accordingly, for all the foregoing reasons, we discern no error on the part of the trial court in concluding that the May 29, 2006 deed is void and unenforceable. Therefore, we affirm the February 9, 2012 judgment entered in favor of Appellee.

Judgment affirmed.