

FIRST DIVISION

[G.R. No. 129459, September 29, 1998]

**SAN JUAN STRUCTURAL AND STEEL FABRICATORS, INC.,
PETITIONER, VS. COURT OF APPEALS, MOTORICH SALES
CORPORATION, NENITA LEE GRUENBERG, ACL DEVELOPMENT
CORP. AND JNM REALTY AND DEVELOPMENT CORP.,
RESPONDENTS.**

DECISION

PANGANIBAN, J.

May a corporate treasurer, by herself and without any authorization from the board of directors, validly sell a parcel of land owned by the corporation? May the veil of corporate fiction be pierced on the mere ground that almost all of the shares of stock of the corporation are owned by said treasurer and her husband?

The Case

These questions are answered in the negative by this Court in resolving the Petition for Review on Certiorari before us, assailing the March 18, 1997 Decision^[1] of the Court of Appeals^[2] in CA GR CV No. 46801 which, in turn, modified the July 18, 1994 Decision of the Regional Trial Court of Makati, Metro Manila, Branch 63^[3] in Civil Case No. 89-3511. The RTC dismissed both the Complaint and the Counterclaim filed by the parties. On the other hand, the Court of Appeals ruled:

"WHEREFORE, premises considered, the appealed decision is AFFIRMED WITH MODIFICATION ordering defendant-appellee Nenita Lee Gruenberg to REFUND or return to plaintiff-appellant the downpayment of P100,000.00 which she received from plaintiff-appellant. There is no pronouncement as to costs."^[4]

The petition also challenges the June 10, 1997 CA Resolution denying reconsideration.^[5]

The Facts

The facts as found by the Court of Appeals are as follows:

"Plaintiff-appellant San Juan Structural and Steel Fabricators, Inc.'s amended complaint alleged that on 14 February 1989, plaintiff-appellant entered into an agreement with defendant-appellee Motorich Sales Corporation for the transfer to it of a parcel of land identified as Lot 30, Block 1 of the Acropolis Greens Subdivision located in the District of Murphy, Quezon City, Metro Manila, containing an area of Four Hundred Fourteen (414) square meters, covered by TCT No. (362909) 2876; that

as stipulated in the Agreement of 14 February 1989, plaintiff-appellant paid the down payment in the sum of One Hundred Thousand (P100,000.00) Pesos, the balance to be paid on or before March 2, 1989; that on March 1, 1989, Mr. Andres T. Co, president of plaintiff-appellant corporation, wrote a letter to defendant-appellee Motorich Sales Corporation requesting for a computation of the balance to be paid; that said letter was coursed through defendant-appellee's broker, Linda Aduca, who wrote the computation of the balance; that on March 2, 1989, plaintiff-appellant was ready with the amount corresponding to the balance, covered by Metrobank Cashier's Check No. 004223, payable to defendant-appellee Motorich Sales Corporation; that plaintiff-appellant and defendant-appellee Motorich Sales Corporation were supposed to meet in the office of plaintiff-appellant but defendant-appellee's treasurer, Nenita Lee Gruenberg, did not appear; that defendant-appellee Motorich Sales Corporation despite repeated demands and in utter disregard of its commitments had refused to execute the Transfer of Rights/Deed of Assignment which is necessary to transfer the certificate of title; that defendant ACL Development Corp. is impleaded as a necessary party since Transfer Certificate of Title No. (362909) 2876 is still in the name of said defendant; while defendant JNM Realty & Development Corp. is likewise impleaded as a necessary party in view of the fact that it is the transferor of right in favor of defendant-appellee Motorich Sales Corporation; that on April 6, 1989, defendant ACL Development Corporation and Motorich Sales Corporation entered into a Deed of Absolute Sale whereby the former transferred to the latter the subject property; that by reason of said transfer, the Registry of Deeds of Quezon City issued a new title in the name of Motorich Sales Corporation, represented by defendant-appellee Nenita Lee Gruenberg and Reynaldo L. Gruenberg, under Transfer Certificate of Title No. 3571; that as a result of defendants-appellees Nenita Lee Gruenberg and Motorich Sales Corporation's bad faith in refusing to execute a formal Transfer of Rights/Deed of Assignment, plaintiff-appellant suffered moral and nominal damages which may be assessed against defendants-appellees in the sum of Five Hundred Thousand (500,000.00) Pesos; that as a result of defendants-appellees Nenita Lee Gruenberg and Motorich Sales Corporation's unjustified and unwarranted failure to execute the required Transfer of Rights/Deed of Assignment or formal deed of sale in favor of plaintiff-appellant, defendants-appellees should be assessed exemplary damages in the sum of One Hundred Thousand (P100,000.00) Pesos; that by reason of defendants-appellees' bad faith in refusing to execute a Transfer of Rights/Deed of Assignment in favor of plaintiff-appellant, the latter lost the opportunity to construct a residential building in the sum of One Hundred Thousand (P100,000.00) Pesos; and that as a consequence of defendants-appellees Nenita Lee Gruenberg and Motorich Sales Corporation's bad faith in refusing to execute a deed of sale in favor of plaintiff-appellant, it has been constrained to obtain the services of counsel at an agreed fee of One Hundred Thousand (P100,000.00) Pesos plus appearance fee for every appearance in court hearings.

"In its answer, defendants-appellees Motorich Sales Corporation and Nenita Lee Gruenberg interposed as affirmative defense that the President and Chairman of Motorich did not sign the agreement adverted

to in par. 3 of the amended complaint; that Mrs. Gruenberg's signature on the agreement (ref: par. 3 of Amended Complaint) is inadequate to bind Motorich. The other signature, that of Mr. Reynaldo Gruenberg, President and Chairman of Motorich, is required; that plaintiff knew this from the very beginning as it was presented a copy of the Transfer of Rights (Annex B of amended complaint) at the time the Agreement (Annex B of amended complaint) was signed; that plaintiff-appellant itself drafted the Agreement and insisted that Mrs. Gruenberg accept the P100,000.00 as earnest money; that granting, without admitting, the enforceability of the agreement, plaintiff-appellant nonetheless failed to pay in legal tender within the stipulated period (up to March 2, 1989); that it was the understanding between Mrs. Gruenberg and plaintiff-appellant that the Transfer of Rights/Deed of Assignment will be signed only upon receipt of cash payment; thus they agreed that if the payment be in check, they will meet at a bank designated by plaintiff-appellant where they will encash the check and sign the Transfer of Rights/Deed. However, plaintiff-appellant informed Mrs. Gruenberg of the alleged availability of the check, by phone, only after banking hours.

"On the basis of the evidence, the court a quo rendered the judgment appealed from[,] dismissing plaintiff-appellant's complaint, ruling that:

'The issue to be resolved is: whether plaintiff had the right to compel defendants to execute a deed of absolute sale in accordance with the agreement of February 14, 1989; and if so, whether plaintiff is entitled to damages.

'As to the first question, there is no evidence to show that defendant Nenita Lee Gruenberg was indeed authorized by defendant corporation, Motorich Sales, to dispose of that property covered by T.C.T. No. (362909) 2876. Since the property is clearly owned by the corporation, Motorich Sales, then its disposition should be governed by the requirement laid down in Sec. 40, of the Corporation Code of the Philippines, to wit:

'Sec. 40, Sale or other disposition of assets. Subject to the provisions of existing laws on illegal combination and monopolies, a corporation may by a majority vote of its board of directors xxx sell, lease, exchange, mortgage, pledge or otherwise dispose of all or substantially all of its property and assets, including its goodwill xxx when authorized by the vote of the stockholders representing at least two third (2/3) of the outstanding capital stock x x x.'

'No such vote was obtained by defendant Nenita Lee Gruenberg for that proposed sale[;] neither was there evidence to show that the supposed transaction was ratified by the corporation. Plaintiff should have been on the look out under these circumstances. More so, plaintiff himself [owns] several corporations (tsn dated August 16, 1993, p. 3) which makes him knowledgeable on corporation matters.

'Regarding the question of damages, the Court likewise, does not find substantial evidence to hold defendant Nenita Lee Gruenberg liable

considering that she did not in anyway misrepresent herself to be authorized by the corporation to sell the property to plaintiff (tsn dated September 27, 1991, p. 8).

'In the light of the foregoing, the Court hereby renders judgment DISMISSING the complaint at instance for lack of merit.

'Defendants' counterclaim is also DISMISSED for lack of basis.' (Decision, pp. 7-8; Rollo, pp. 34-35)"

For clarity, the Agreement dated February 14, 1989 is reproduced hereunder:

"AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement, made and entered into by and between:

MOTORICH SALES CORPORATION, a corporation duly organized and existing under and by virtue of Philippine Laws, with principal office address at 5510 South Super Hi-way cor. Balderama St., Pio del Pilar, Makati, Metro Manila, represented herein by its Treasurer, NENITA LEE GRUENBERG, hereinafter referred to as the TRANSFEROR;

- and --

SAN JUAN STRUCTURAL & STEEL FABRICATORS, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office address at Sumulong Highway, Barrio Mambungan, Antipolo, Rizal, represented herein by its President, ANDRES T. CO, hereinafter referred to as the TRANSFEREE.

WITNESSETH, That:

WHEREAS, the TRANSFEROR is the owner of a parcel of land identified as Lot 30 Block 1 of the ACROPOLIS GREENS SUBDIVISION located at the District of Murphy, Quezon City, Metro Manila, containing an area of FOUR HUNDRED FOURTEEN (414) SQUARE METERS, covered by a TRANSFER OF RIGHTS between JNM Realty & Dev. Corp. as the Transferor and Motorich Sales Corp. as the Transferee;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties have agreed as follows:

1. That the purchase price shall be at FIVE THOUSAND TWO HUNDRED PESOS (P5,200.00) per square meter; subject to the following terms:

a. Earnest money amounting to ONE HUNDRED THOUSAND PESOS (P100,000.00), will be paid upon the execution of this agreement and shall form part of the total purchase price;

b. Balance shall be payable on or before March 2, 1989;

2. That the monthly amortization for the month of February 1989 shall be for the account of the Transferor; and that the monthly amortization starting March 21, 1989 shall be for the account of the Transferee;

The transferor warrants that he [sic] is the lawful owner of the above-described property and that there [are] no existing liens and/or encumbrances of whatsoever nature;

In case of failure by the Transferee to pay the balance on the date specified on 1. (b), the earnest money shall be forfeited in favor of the Transferor.

That upon full payment of the balance, the TRANSFEROR agrees to execute a TRANSFER OF RIGHTS/DEED OF ASSIGNMENT in favor of the TRANSFEREE.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 14th day of February, 1989 at Greenhills, San Juan, Metro Manila, Philippines.

MOTORICH SALES CORPORATION SAN STRUCTURAL &

TRANSFEROR STEEL FABRICATORS

TRANSFEREE

[SGD.]

By: NENITA LEE GRUENBERG
Treasurer

[SGD.]

By: ANDRES T. CO
President

Signed in the presence of:

[SGD.]

[SGD.]

_____ "[6]

In its recourse before the Court of Appeals, petitioner insisted:

"1. Appellant is entitled to compel the appellees to execute a Deed of Absolute Sale in accordance with the Agreement of February 14, 1989,

2. Plaintiff is entitled to damages."^[7]

As stated earlier, the Court of Appeals debunked petitioner's arguments and affirmed the Decision of the RTC with the modification that Respondent Nenita Lee Gruenberg was ordered to refund P100,000 to petitioner, the amount remitted as "downpayment" or "earnest money." Hence, this petition before us.^[8]

The Issues