

FIRST DIVISION

[G.R. No. 114311, November 29, 1996]

COSMIC LUMBER CORPORATION, PETITIONER, VS. COURT OF APPEALS AND ISIDRO PEREZ, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

COSMIC LUMBER CORPORATION through its General Manager executed on 28 January 1985 a Special Power of Attorney appointing Paz G. Villamil-Estrada as attorney-in-fact -

x x x to initiate, institute and file any court action for the ejectment of third persons and/or squatters of the entire lot 9127 and 443 and covered by TCT Nos. 37648 and 37649, for the said squatters to remove their houses and vacate the premises in order that the corporation may take material possession of the entire lot, and for this purpose, to appear at the pre-trial conference and enter into any stipulation of facts and/or compromise agreement so far as it shall protect the rights and interest of the corporation in the aforementioned lots.^[1]

On 11 March 1985 Paz G. Villamil-Estrada, by virtue of her power of attorney, instituted an action for the ejectment of private respondent Isidro Perez and recover the possession of a portion of Lot No. 443 before the Regional Trial Court of Dagupan, docketed as Civil Case No. D-7750.^[2]

On 25 November 1985 Villamil-Estrada entered into a Compromise Agreement with respondent Perez, the terms of which follow:

1. That as per relocation sketch plan dated June 5, 1985 prepared by Engineer Rodolfo dela Cruz the area at present occupied by defendant wherein his house is located is 333 square meters on the easternmost part of lot 443 and which portion has been occupied by defendant for several years now;
2. That to buy peace said defendant pays unto the plaintiff through herein attorney-in-fact the sum of P26,640.00 computed at P80.00/square meter;
3. That plaintiff hereby recognizes ownership and possession of the defendant by virtue of this compromise agreement over said portion of 333 square m. of lot 443 which portion will be located on the easternmost part as indicated in the sketch as annex A;
4. Whatever expenses of subdivision, registration, and other incidental expenses shall be shouldered by the defendant.^[3]

On 27 November 1985 the "Compromise Agreement" was approved by the trial court and judgment was rendered in accordance therewith.^[4]

Although the decision became final and executory it was not executed within the 5-year period from date of its finality allegedly due to the failure of petitioner to produce the owner's duplicate copy of Title No. 37649 needed to segregate from Lot No. 443 the portion sold by the attorney-in-fact, Paz G. Villamil-Estrada, to private respondent under the compromise agreement. Thus on 25 January 1993 respondent filed a complaint to revive the judgment, docketed as Civil Case No. D-10459.^[5]

Petitioner asserts that it was only when the summons in Civil Case No. D-10459 for the revival of judgment was served upon it that it came to know of the compromise agreement entered into between Paz G. Villamil-Estrada and respondent Isidro Perez upon which the trial court based its decision of 26 July 1993 in Civil Case No. D-7750. Forthwith, upon learning of the fraudulent transaction, petitioner sought annulment of the decision of the trial court before respondent Court of Appeals on the ground that the compromise agreement was void because: (a) the attorney-in-fact did not have the authority to dispose of, sell, encumber or divest the plaintiff of its ownership over its real property or any portion thereof; (b) the authority of the attorney-in-fact was confined to the institution and filing of an ejectment case against third persons/squatters on the property of the plaintiff, and to cause their eviction therefrom; (c) while the special power of attorney made mention of an authority to enter into a compromise agreement, such authority was in connection with, and limited to, the eviction of third persons/squatters thereat, in order that *"the corporation may take material possession of the entire lot;"* (d) the amount of P26,640.00 alluded to as alleged consideration of said agreement was never received by the plaintiff; (e) the private defendant acted in bad faith in the execution of said agreement knowing fully well the want of authority of the attorney-in-fact to sell, encumber or dispose of the real property of plaintiff; and, (f) the disposal of a corporate property indispensably requires a Board Resolution of its Directors, a fact which is wanting in said Civil Case No. D-7750, and the General Manager is not the proper officer to encumber a corporate property.^[6]

On 29 October 1993 respondent court dismissed the complaint on the basis of its finding that not one of the grounds for annulment, namely, lack of jurisdiction, fraud or illegality was shown to exist.^[7] It also denied the motion for reconsideration filed by petitioner, discoursing that the alleged nullity of the compromise judgment on the ground that petitioner's attorney in fact Villamit-Estrada was not authorized to sell the subject property may be raised as a defense in the execution of the compromise judgment as it does not bind petitioner, but not as a ground for annulment of judgment because it does not affect the jurisdiction of the trial court over the action nor does it amount to extrinsic fraud.^[8]

Petitioner challenges this verdict. It argues that the decision of the trial court is void because the compromise agreement upon which it was based is void. Attorney-in-fact Villamil-Estrada did not possess the authority to sell or was she armed with a Board Resolution authorizing the sale of its property. She was merely empowered to enter into a compromise agreement in the recovery suit she was authorized to file against persons squatting on Lot No. 443, such authority being expressly confined to the *"ejectment of third persons or squatters of x x x lot x x x (No.) 443 x x x for*

the said squatters to remove their houses and vacate the premises in order that the corporation may take material possession of the entire lot x x x x"

We agree with petitioner. The authority granted Villamil-Estrada under the special power of attorney was explicit and exclusionary: for her to institute any action in court to eject all persons found on Lots Nos. 9127 and 443 so that petitioner could take material possession thereof, and for this purpose, to appear at the pre-trial and enter into any stipulation of facts and/or compromise agreement but only insofar as this was protective of the rights and interests of petitioner in the property. Nowhere in this authorization was Villamil-Estrada granted expressly or impliedly any power to sell the subject property nor a portion thereof. Neither can a conferment of the power to sell be validly inferred from the specific authority *"to enter into a compromise agreement"* because of the explicit limitation fixed by the grantor that the compromise entered into shall only be *"so far as it shall protect the rights and interest of the corporation in the aforementioned lots."* In the context of the specific investiture of powers to Villamil-Estrada, alienation by sale of an immovable certainly cannot be deemed protective of the right of petitioner to physically possess the same, more so when the land was being sold for a price of P80.00 per square meter, very much less than its assessed value of P250.00 per square meter, and considering further that petitioner never received the proceeds of the sale.

When the sale of a piece of land or any interest thereon is through an agent, the authority of the latter shall be in writing; otherwise, the sale shall be void.^[9] Thus the authority of an agent to execute a contract for the sale of real estate must be conferred in writing and must give him specific authority, either to conduct the general business of the principal or to execute a binding contract containing terms and conditions which are in the contract he did execute.^[10] A special power of attorney is necessary to enter into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration.^[11] The express mandate required by law to enable an appointee of an agency (couched) in general terms to sell must be one that expressly mentions a sale or that includes a sale as a necessary ingredient of the act mentioned.^[12] For the principal to confer the right upon an agent to sell real estate, a power of attorney must so express the powers of the agent in clear and unmistakable language. When there is any reasonable doubt that the language so used conveys such power, no such construction shall be given the document.^[13]

It is therefore clear that by selling to respondent Perez a portion of petitioner's land through a compromise agreement, Villamil-Estrada acted without or in obvious authority. The sale *ipso jure* is consequently void. So is the compromise agreement. This being the case, the judgment based thereon is necessarily void. Antipodal to the opinion expressed by respondent court in resolving petitioner's motion for reconsideration, the nullity of the settlement between Villamil-Estrada and Perez impaired the jurisdiction of the trial court to render its decision based on the compromise agreement. In *Alviar v. Court of First Instance of La Union*,^[14] the Court held -

x x x x this court does not hesitate to hold that the judgment in question is null and void ab initio. It is not binding upon and cannot be executed against the petitioners. It is evident that the compromise upon which the judgment was based was not subscribed by them x x x x Neither could