

## **SPECIAL SIXTEENTH DIVISION**

**[ CA – G.R. CV No. 101797, March 24, 2015 ]**

**ROBERTO RAMA, PLAINTIFF-APPELLEE, VS. WILFREDO RAMA,  
EMELINO LIM AND THE REGISTRAR OF DEEDS OF PALAWAN,  
DEFENDANTS-APPELLANTS.**

### **D E C I S I O N**

**BRUSELAS, JR. J.:**

The appellant appeals from the Order<sup>[1]</sup> of the Regional Trial Court (RTC) which declared null and void the "Declaration of Heirship With Simultaneous Sale", "Deed of Absolute Sale", "Petition to Split" and ordered the cancellation of Transfer Certificate of Title No. T-17554 as well as the annotations on Original Certificate of Title No. E-9674. The dispositive portion of the decision reads:

"WHEREFORE, Judgment is rendered:

1. Declaring as null and void the Declaration of Heirship with Simultaneous Sale of Portion executed before notary public Leopoldo Mario P. Legazpi under Doc. No. 197, Page No. 41, Book No. XX, Series of 2004;
2. Declaring as null and void the Deed of Absolute Sale executed before notary public Leopoldo Mario P. Legazpi under Document No. 196, Page No. 41, Book No. XIX, Series of 2004;
3. Declaring as null and void the Petition to Split executed before notary public Peter Maristela under Document No. 014, Page No. 03, Book No. 011;
4. Ordering the Register of Deeds of Palawan to cancel Transfer Certificate of Title No. T-17554 in the name of Emelino V. Lim; and
5. Ordering the Register of Deeds of Palawan to cancel all entries of annotation on Original Certificate of Title No. E-9674 pertaining to the above-mentioned Declaration of Heirship with Simultaneous Sale of Portion, Deed of Absolute Sale and Petition to Split such that Lot PSU-214959 is not altered in any size or portion and not sold to anyone under the above-mentioned documents declared as null and void."

SO ORDERED."<sup>[2]</sup>

Likewise assailed is the Order<sup>[3]</sup> which denied the appellants' motion for reconsideration for lack of merit.

The material and relevant facts are as follows:

The subject parcel of land was registered in the name of the heirs of late Teofilo A. Rama, Sr. under Original Certificate of Title No. E-9674<sup>[4]</sup> by virtue of a Free Patent grant issued in their favor in 1992. It has an area of 5,123 square meters and designated as PSU 214959 identical to Lot No. 69, Cad 841-D. The heirs did not formally partition the land among themselves. On 22 May 2001, the heirs, namely: Whelma Rama Bautista, Lamberto Rama, Roberto Rama, Albert Rama and Salvador Rama appointed and constituted appellant Wilfredo Rama ("Wilfredo"), a co-heir and co-owner, to be their true and lawful attorney-in-fact to do and perform the following acts:

- "1. To sell, offer for sale and or negotiate for the sale of a parcel of land situated at Poblacion, Taytay, Palawan and covered by OCT No. E-9674 in favor of any person interested to buy the same in such sum as our Attorney-in-Fact may fixed;
2. To sign, execute and deliver the necessary Deed of Sale or any deed of conveyance or transfer in favor of the buyer;
3. To accept the purchase price;
4. To perform such other acts and deeds which are necessary and required to accomplish the powers granted him.

HEREBY GIVING AND GRANTING unto our said Attorney-in-Fact full power and authority whatsoever requisite or proper to be made in or about the premises as fully to all intents and purposes and hereby approving all that our said Attorney-in-Fact shall lawfully do by virtue of these presents as WE might or could lawfully do if personally present."<sup>[5]</sup>

Another Special Power of Attorney (SPA), executed by the other heirs, Arcadio Rama and Teofilo Rama, Jr., on 26 March 2003 likewise appointed and constituted Wilfredo as their attorney-in-fact for the same acts aforementioned.<sup>[6]</sup>

In February 2004, Wilfredo, acting as co-heir, vendor and attorney-in-fact, executed a *Declaration of Heirship with Simultaneous Sale of Portion*<sup>[7]</sup> of the subject parcel of land declaring that the heirs have caused the subdivision of the land into three (3) distinct lots known and designated as Lot 69-A, Lot 69-B and Lot 69-C; and that for and in consideration of P440,000.00, the heirs desired to sell and convey Lot 69-B, containing an area of 2,193 square meters, in favor of appellant Emelino Lim ("Lim"). Meanwhile, Wilfredo, representing his co-heirs and co-owners, filed a Petition<sup>[8]</sup> before the Register of Deeds of Palawan and sought that separate titles corresponding to the 3 lots be issued under the names of the heirs (for Lot 69-A and 69-C) and under the name of Lim (for Lot 69-B).

Relying on the SPA, Wilfredo executed a Deed of Absolute Sale<sup>[9]</sup> conveying Lot 69-B with an area of 2,193 square meters, in favor of Lim upon payment of the sum of P440,000.00. Transfer Certificate of Title No. T-17554<sup>[10]</sup> over the said lot was accordingly issued in the name of Lim.

The foregoing acts of Wilfredo were opposed by appellee Roberto Rama ("Roberto"). The latter filed a complaint before the trial court to declare the nullity of the said instruments as well as to order the cancellation of the title issued to Lim. He claimed that the special power of attorney to sell the subject parcel of land did not include the authority to sell a portion of the said land. He argued that as a co-owner of the property, his consent was necessary before the subject parcel of land can be subdivided into 3 distinct lots. Because the heirs have not yet agreed on a partition, Roberto asserted that there was no basis for Wilfredo to unilaterally subdivide and ask for a separate title on any portion of the subject land.

Wilfredo, for his part, argued that the special power of attorney did not expressly prohibit him from selling piecemeal the subject parcel of land or limit the sale to just one transaction or one buyer. He further argued that he still acted within the scope of his authority because his act of selling a portion of the land in question was more advantageous to the principals in view of Articles 1881 and 1882 of the New Civil Code, by saving the entire property from certain loss due to a mortgage thereon.

Via the 23 March 2011 order, the trial court granted Roberto's complaint and held that the sale of a portion of the parcel of land was not within the letters establishing the power granted to Wilfredo as attorney-in-fact. The trial court thus ratiocinated as follows:

"The parties' consensus in this case can be decided on the basis of the allegations in the pleadings as the only issue to be resolved is whether defendant Rama has full authority under the Special Power of Attorney subject of this case to sell a portion of the lot instead of the entire lot referred to in the special power of attorney. It is an axiomatic rule that the delegation of authority is strictly construed against the agent and that the powers given must be understood in the literal sense of the words constituting the text of the special power of attorney. As raised correctly by the plaintiff, the power granted to defendant Rama is to sell a particular lot. The text of the special power of attorney is clear that the power to sell relates to "the sale of a parcel of land". It does not mention the sale of a portion of the parcel of land. The "parcel of land" is identified as the lot "covered by OCT No. E-9674 and the sale is in favor of any person interested to buy the same and not a portion of the said lot. The said title pertains to Lot No. PSU-214959, identical to Lot No. 69, Cad 841-D and the sale of any other lot of a different size or shape is not within the contemplation of the letters constituting the power given to the attorney in fact.

When defendant sold only a portion of the lot covered by OCT No. E-9674 the sale cannot be under the authority granted by the Special Power of Attorney. The contention of defendant that there is no limitation on what can be sold under the Special power of attorney is misplaced. The very specific identification of what is to be sold is the very limitation itself such that more or less than what is identified and pertained to in the Special Power of Attorney cannot be concluded to be covered by the powers granted."<sup>[11]</sup>

Aggrieved, the appellants appeal to the Court and find fault with the RTC for declaring null and void the conveyance of Lot 69-B in favor of Lim as well as the