

SEVENTH DIVISION

[CA-G.R. CV No. 97420, May 30, 2014]

NOIDA TORRES-CAPAPAS, PETITIONER-APPELLEE, VS. EDWIN TORRES, RESPONDENT-APPELLANT.

DECISION

REYES-CARPIO, A., J.:

This is an Appeal, filed under Rule 41 of the 1997 Rules of Civil Procedure, seeking the reversal of the Decision,^[1] dated December 20, 2010, rendered by the Regional Trial Court of Rosales, Pangasinan, Branch 53 in Civil Case No. 1391-R, entitled "Noida Torres-Capapas vs. Edwin Torres," for injunction with prayer for preliminary injunction, temporary restraining order and damages, the dispositive portion of which reads:

"WHEREFORE, premises considered, the petition for injunction is hereby dismissed. The counterclaim of defendant for damages is likewise dismissed for lack of merit.

SO ORDERED."^[2]

The instant case involves real property located in Malabon, with an area of 322.50 square meters, covered by Transfer Certificate of Title No. 47254^[3] in the name of Rodrigo Torres, father of petitioner-appellee Noida Torres-Capapas (Noida, for brevity) and respondent-appellant Edwin Torres (hereafter referred to as Edwin). The said property was leased to a third person, earning monthly rentals of P34,000.00.

Noida claimed that their father executed a Springing Durable Power of Attorney (SDPA),^[4] dated May 13, 2002, in favor of her and her brother, Edwin. Under the said document, Noida was the attorney-in-fact of Rodrigo Torres with the authority to manage and control any real property owned by Rodrigo, including the collection of income derived therefrom. The pertinent portion reads:

" TO WHOM IT MAY CONCERN:

RODRIGO TORRES, (the principal) presently residing at 191 Avalon Circle, Vallejo, CA 94589, hereby appoints **NOIDA T. CAPAPAS**, residing at 191 Avalon Circle, Vallejo, CA 94589 (Telephone 707-552-9795), to serve as the principal's true and lawful agent (attorney-in-fact) for the principal and in the principal's name, place, and stead on the principal's incapacity:

1. To manage, control, lease, sublease, and otherwise act concerning any real property that the principal may own, collect and receive rents or income therefrom, pay taxes, charges and assessments on the same, repair, maintain,

protect, preserve, alter, and improve the same and do all things necessary or expedient to be done in the agent's judgement (sic) in connection with the property.

x x x

4. To collect and deposit for the benefit of the principal all debts, interests, dividends or other assets that may be due, or belong to the principal and to execute and deliver receipts and other discharges therefore; to demand, arbitrate and pursue litigation on the principal's behalf concerning all rights and benefits to which the principal may be entitled; and to compromise, settle, and discharge all such matters as the agent considers appropriate under the circumstances.

x x x

6. To grant, sell, transfer, mortgage, deed in trust, pledge and otherwise deal in all property, real and personal, that the principal may own, including but not limited to any real property described on any exhibit attached to this instrument including property acquired after the execution of this instrument; to attach exhibits to this instrument that provide legal description of all such properties; and to execute such instruments as the agent deems proper in conjunction with all matters covered in this paragraph 6.

x x x

15. To do all things and enter into all transactions necessary to provide for the principal's personal care, to maintain the principal's customary standard of living, to provide suitable living quarters for the principal, and to hire, compensate, and discharge household, nursing, and other employees as the agent considers advisable for the principal's well-being. The above shall specifically include but not be limited to the authority to pay the ongoing costs of maintenance of the principal's present residence, such as interest, taxes, repairs; to procure and pay for clothing, transportation, recreation, travel, medicine, medical care, food, and other needs; and to make arrangements and enter into contracts on behalf of the principal with hospitals, hospices, nursing homes, convalescent homes, and similar organizations.

x x x

17. Generally to do, execute, and perform any other act, deed, matter, or thing, that in the opinion of the agent ought to be done, executed, or performed in conjunction with this power of attorney, of every kind and nature, as fully and effectively as the principal could do if personally present. The enumeration of specific items, acts, rights, or powers does not limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers granted to the agent except where powers are expressly restricted.

x x x."^[5]

However, she discovered that during the time she was in the United States, respondent Edwin started collecting rentals from the property and allocated the proceeds thereof for his personal use when the same was actually for Rodrigo's

needs such as medication and hospital expenses. Thus, Noida filed a Petition,⁶ dated April 19, 2007, seeking the following reliefs:

"WHEREFORE, in view of all the foregoing, it is most respectfully prayed of the Honorable Court that:

1. Upon filing of this petition, a temporary restraining order (TRO) be issued directing the respondent, his agents and representatives to:
 - a. cease and desist from interfering with the management by the petitioner of the properties of petitioner's father described above;
 - b. cease and desist from collecting rentals from the properties of petitioner's father as well as threatening and/or preventing the lessees therein from paying the rentals to the petitioner;
2. After due notice and hearing, to issue a writ of injunction permanently enjoining respondent to:
 - a. cease and desist from interfering with the management by the petitioner of the properties of petitioner's father described above;
 - b. cease and desist from collecting rentals from the properties of petitioner's father as well as threatening and/or preventing the lessees therein from paying the rentals to the petitioner;
3. ORDER the respondent to pay the petitioner the following:
 - a. P400,000.00 by way of moral damages;
 - b. P250,000.00 by way of exemplary damages;
 - c. P 71,737.40 by way of actual damages representing the air fare and other expenses of the petitioner from the United States to the Philippines and back;
 - d. P172,440.00 representing the lost income on the part of the petitioner during her 3-week absence from her work in the United States in order for her to file this case;
 - e. P100,000.00 by way of attorney's fees and P5,000.00 as appearance fee per hearing of this case.
4. To pay the costs.

Petitioner further prays for such other reliefs and remedies just and equitable in the premises."^[7]

Edwin, in turn, admitted to collecting the rentals from the Malabon property but averred that he did so under authority of his siblings. He also claimed that he was a co-owner of the property upon the death of their mother as the same was conjugal in nature. He also denied the enforceability of the SDPA in the Philippines as the same was executed in the United States.⁸ Thus, respondent-appellant sought the dismissal of the petition and monetary award as follows:

"4. On the Counterclaim, petitioner be made to pay respondent the following:

Php. 300,000.00	as Attorney's Fees
Php. 300,000.00	as exemplary damages
Php. 38,964.00	as actual expenses for air fare of the respondent from the USA to the Philippines and back
Php. 20,000.00	and (sic) his other expenses while in the Philippines
Php. 400,000.00	by way of moral damages

5. Petitioner be also ordered to pay the costs of litigation and other judicial expenses."^[9]

During pre-trial, the issues were narrowed down to the following:

"ISSUES:

- 1) Who between the parties have the better right to collect the rentals.
- 2) Who between the parties have better right to manage the property;

The defendants, through counsel, also raised the following issues:

- 1) What should be the proper pleading to be filed;
- 2) Whether Rodrigo Torres receives pension from the PVAO and GSIS or not;
- 3) Whether Rodrigo Torres is receiving pension from the United States or not;
- 4) Whether Noida should make an accounting of all the money that she received for Rodrigo;
- 5) Whether Rodrigo should stay in the Philippines or not."^[10]