



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

**FARIDA YAP BITTE AND THE
 HEIRS OF BENJAMIN D.
 BITTE, namely: JACOB YAP
 BITTE, SHAIRA DAYANARA
 YAP BITTE, FATIMA YAP
 BITTE and ALLAN ROBERT
 YAP BITTE,**

Petitioners,

- versus -

**SPOUSES FRED AND ROSA
 ELSA SERRANO JONAS,**

Respondents.

G.R. No. 212256

Present:

CARPIO, *J.*, Chairperson,
 DEL CASTILLO,
 PEREZ,*
 MENDOZA, and
 LEONEN, *JJ.*

Promulgated:

09 DEC 2015

Mendoza

X ----- X

DECISION

MENDOZA, J.:

In this petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, the petitioners, Farida Yap Bitte and Heirs of Benjamin Bitte (*the petitioners*), seek the review of the September 26, 2013 Decision² and February 26, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 01596-MIN, which reversed the January 18, 2007 Joint Decision⁴ of the Regional Trial Court, Branch 13, Davao (*RTC-Branch 13*), arrived at in favor of respondents, Spouses Fred and Rosa Elsa Serrano Jonas (*Spouses Jonas*).

* Per Special Order No. 2301, dated December 1, 2015.

¹ *Rollo*, pp. 3-31.

² *Id.* at 123-145. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Romulo V. Borja and Edward B. Contreras, concurring.

³ *Id.* at 166-167. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Romulo V. Borja and Edward B. Contreras, concurring.

⁴ *Id.* at 48-61. Penned by Judge Isaac G. Robillo, Jr.

Factual Antecedents

This controversy stemmed from two civil cases filed by the parties against each other relative to a purported contract of sale involving a piece of property situated at 820 corner Jacinto Street and Quezon Boulevard, Davao City (*subject property*). It was initially covered by TCT No. T-112717 in the name of Rosa Elsa Serrano Jonas (*Rosa Elsa*) and presently by TCT No. T-315273 under the name of Ganzon Yap, married to Haima Yap (*Spouses Yap*).

On July 19, 1985, before Rosa Elsa went to Australia, she had executed a Special Power of Attorney (*SPA*) authorizing her mother, Andrea C. Serrano (*Andrea*), to sell the property.

Sometime in May 1996, Cipriano Serrano (*Cipriano*), son of Andrea and brother of Rosa Elsa, offered the property for sale to Spouses Benjamin and Farida Yap Bitte (*Spouses Bitte*) showing them the authority of Andrea. On September 3, 1996, Cipriano received from Spouses Bitte the amount of ₱200,000.00 as advance payment for the property. Later on, on September 10, 1996, he received the additional amount of ₱400,000.00.

Spouses Bitte sought a meeting for final negotiation with Rosa Elsa, the registered owner of the subject property. At that time, Rosa Elsa was in Australia and had no funds to spare for her travel to the Philippines. To enable her to come to the country, Spouses Bitte paid for her round trip ticket.

On October 10, 1996, shortly after her arrival here in the Philippines, Rosa Elsa revoked the SPA, through an instrument of even date, and handed a copy thereof to Andrea.

The next day, on October 11, 1996, the parties met at Farida Bitte's office, but no final agreement was reached. The next day, Rosa Elsa withdrew from the transaction.

On October 17, 1996, Spouses Bitte filed before the RTC a Complaint for Specific Performance with Damages seeking to compel Rosa Elsa, Andrea and Cipriano to transfer to their names the title over the subject property. The case was docketed as **Civil Case No. 24,771-96** and raffled to RTC-Branch 13.

While the case was pending, Andrea sold the subject property to Spouses Bitte, through a deed of absolute sale, dated February 25, 1997, and notarized by one Atty. Bernardino Bolcan, Jr.

Immediately thereafter, Rosa Elsa asked Andrea about the sale. Her questions about the sale, however, were ignored and her pleas for the cancellation of the sale and restoration of the property to her possession were disregarded.

Undisputed by the parties is the fact that Rosa Elsa earlier mortgaged the subject property to Mindanao Development Bank. Upon failure to pay the loan on maturity, the mortgage was foreclosed and sold at a public auction on December 14, 1998 as evidenced by the annotation on the title, Entry No. 1173153.⁵

Armed with the deed of absolute sale executed by Andrea, Spouses Bitte were able to redeem the property on September 14, 1998 from the highest bidder, Thelma Jean Salvana, for P1.6 Million Pesos.

Thereafter, Spouses Bitte sold the property to Ganzon Yap (*Ganzon*), married to Haima Yap.⁶

Civil Case No. 24,771-96
(Spouses Bitte v. Rosa Elsa Serrano Jonas, Andrea C. Serrano and Cipriano Serrano, Jr.)

As earlier recited, on October 17, 1996, Spouses Bitte filed before the RTC ***Civil Case No. 24,771-96***, a Complaint for Specific Performance with Damages seeking to compel Rosa Elsa, Andrea and Cipriano to transfer the title of the subject property to their names.

In their Complaint, Spouses Bitte alleged that sometime in May 1996, the property was offered to them for sale by Cipriano, who showed them the SPA in favor of Andrea; that on September 3, 1996 and September 10, 1996, Cipriano received from them the respective amounts of ₱200,000.00 and then ₱400,000.00 as advance payments for the property; that they sought a meeting for final negotiation with Rosa Elsa, then the registered

⁵ Id. at 129.

⁶ Id. at 42.

owner of the subject property; that at that time, Rosa Elsa was in Australia and had no funds to spare in order to return to the Philippines; that to enable her to come to the country, they paid for her round trip ticket; that on October 11, 1996, they and Rosa Elsa met at Farida Bitte's office; that an agreement of sale of the subject property for the total purchase price of ₱6.2 Million Pesos was reached; that ₱5 Million thereof would be paid on October 18, 1996 and the balance, thirty (30) days thereafter; that on the following day, Rosa Elsa withdrew from the transaction; and that on the same date, they demanded, through a letter, the execution of the necessary documents to effect the transfer of the property to their names, but to no avail.

On October 18, 1996, RTC-Branch 13 granted the prayer for the issuance of a Temporary Restraining Order (*TRO*) preventing Rosa Elsa and her agents from disposing the subject property. Subsequently, on November 8, 1996, a Writ of Preliminary Injunction (*WPI*) was issued in favor of Spouses Bitte.

In response, Rosa Elsa countered that despite her appointment of her mother, Andrea, as her attorney-in-fact/agent, she later gave her instructions not to sell the property; that her revocation barred the consummation of the contract to sell; that it was her belief that her return to the Philippines was in connection with the sale of another property situated in Cawag, San Isidro, Davao Oriental; that it was a surprise to her when she learned that Cipriano was still negotiating for the sale of the subject property; that for said reason, she asked for a meeting with Spouses Bitte to discuss the issue; that in the meeting, upon learning of the source of her air fare, she offered to refund it and to return the unused ticket for her return trip, but Spouses Bitte refused her offer; that no authority was given to Cipriano to receive any advance payment for the property; and that Andrea's authority was revoked through a Deed of Revocation of the Special Power of Attorney (*SPA*), dated October 10, 1996.

During the pre-trial conference held on July 30, 1999, Spouses Bitte failed to appear. Consequently, RTC-Branch 13 dismissed their complaint and set the reception of Rosa Elsa's counterclaim for hearing.

Later on, Benjamin Bitte manifested the withdrawal of their counsel. RTC-Branch 13 then cancelled the reception of Rosa Elsa's evidence without reconsidering the dismissal of the complaint.

Civil Case No. 27,667-99
(Spouses Fred Jonas and Rosa Elsa Serrano Jonas v. Sps. Benjamin Bitte and Farida Yap Bitte, Andrea C. Serrano, Reg. of Deeds and the Clerk of Court, RTC, Davao City)

On November 16, 1999, Spouses Jonas filed before the RTC ***Civil Case No. 27,667-99***, a complaint for Annulment of Deed of Absolute Sale, Cancellation of TCT and Recovery of Possession, Injunction, and Damages against Spouses Bitte.

In the Complaint, Spouses Jonas alleged that Rosa Elsa acquired the property before marriage; that on July 19, 1985, when she decided to leave for Australia to reside there, she executed an SPA of even date, granting her mother, Andrea, the authority to sell the subject property; that while in Australia, she decided that she would no longer sell the property; that she instructed her mother to stop offering the property to prospective buyers; that upon arrival here in the Philippines in 1996, she revoked the SPA, through an instrument, dated October 10, 1996, and handed a copy thereof to Andrea; that later, she received information that the property was subsequently sold to Spouses Bitte, through a Deed of Absolute Sale, dated February 25, 1997, signed by her mother, Andrea; and that she then pleaded for the return of the property, but Andrea repeatedly ignored her.

Spouses Jonas eventually sought judicial recourse through the filing of a complaint for the Annulment of the Deed of Absolute Sale and Reconveyance of the Property which was raffled to RTC-Branch 9.

On November 17, 1999, Branch 9 issued a 20-day TRO restraining Spouses Bitte from selling or disposing the subject property. On December 6, 1999, after hearing, it issued a WPI for the same purpose.

On July 11, 2000, Rosa Elsa moved for the admission of an Amended Complaint in order to implead Spouses Yap because the title over the subject property had been subsequently registered in their names.

*Consolidation of the
Two Cases*

As earlier recited, RTC-Branch 13 dismissed the complaint of Spouses Bitte and set the reception of Rosa Elsa's counterclaim for hearing.

Later on, RTC-Branch 13 cancelled the reception of Rosa Elsa's evidence without reconsidering the dismissal of the complaint.

Nonetheless, on May 26, 2000, RTC-Branch 13 reconsidered its earlier ruling after seeing the need to consolidate **Civil Case No. 27,667-99** with **Civil Case No. 24,771-99** pending before the RTC, Branch 9, Davao (*RTC-Branch 99*). In the October 4, 2001 Order, the cases were ordered **consolidated** and were thereafter scheduled to be jointly heard before Branch 13.

On April 17, 2002, Spouses Bitte were again declared in default by RTC- Branch 13 for their failure to attend the pre-trial.

On January 4, 2003, the counsel of Spouses Bitte withdrew and a new one entered his appearance and then filed a verified motion for reconsideration.

On August 21, 2003, Spouses Bitte once again failed to appear in the pre-trial and were, thus, declared non-suited. Rosa Elsa then presented her evidence *ex parte*.

Joint Decision of the RTC-Branch13

On January 18, 2007, RTC-Branch 13 rendered a Joint Decision,⁷ confirming the dismissal of Civil Case No. 24,771-96 and directing Spouses Bitte to pay Rosa Elsa the amount of ₱1,546,752.80, representing the balance of the sale of the subject. The dispositive portion of the Joint Decision reads:

WHEREFORE, judgment is hereby rendered in these cases as follows:

- a. Reiterating the dismissal of Civil Case No. 24,771-96;
- b. Directing spouses Benjamin and Farida Bitte to pay Rosa Elsa Serrano Jonas the amount of P1,546,752.80 (one million five hundred forty-thousand seven hundred fifty two and 80/100 pesos) representing the balance of the sale of the property subject of this case to them;
- c. Directing spouses Benjamin and Farida Bitte to pay interest on the balance at the rate of 12% per annum from the date of this decision until fully paid.

SO ORDERED.⁸

⁷ Id. at 48-61. Penned by Judge Isaac G. Robillo, Jr.

⁸ Id. at 61.

Ruling of the CA

Aggrieved, Spouses Jonas appealed to the CA. On September 26, 2013, the CA *reversed* the RTC-Branch 13 Joint Decision. In so ruling, the CA focused on the validity and enforceability of the deed of absolute sale executed by Andrea in the name of Rosa Elsa. The CA explained:

1. Andrea's execution on behalf of Rosa Elsa of the deed of absolute sale in favor of Spouses Bitte was void and unenforceable as the authority to represent Rosa Elsa had already been revoked as early as October 10, 1996. Without the authority to effect the conveyance, the contract was without effect to Rosa Elsa, who was a stranger to the conveyance in favor of Spouses Bitte. Rosa Elsa did not consent to the transaction either.

2. Considering that no valid conveyance was effected, Spouses Bitte had no right to redeem the foreclosed property because they were not among those persons who could redeem a property under Sec. 6 of Act. No. 3135 and Section 27 of Rule 39 of the Rules of Court. They could not be considered successors-in-interest or transferees because no right was conveyed by Rosa Elsa on account of the revocation of the authority given to Andrea.

3. Ganzon, the one who subsequently purchased the property from Spouses Bitte, was not an innocent purchaser of the property as the conveyance was attended with circumstances which should have alerted him of the fallibility of the title over the property. Ganzon transacted with Spouses Bitte, who were then not yet the registered owners of the property. He should have made inquiries first as to how Spouses Bitte acquired the rights over the property.

Thus, the CA disposed as follows:

WHEREFORE, premises considered, the instant appeal is hereby **GRANTED** and the Joint Decision, dated 18 January 2007 of the RTC, Eleventh Judicial Region, Branch 13, Davao City, insofar as it pertains to Civil Case No. 27,667-99 is hereby **REVERSED** and **SET ASIDE**. Accordingly,

- a) The Deed of Absolute Sale dated 25 February 1997 is hereby declared **NULL** and **VOID**.
- b) Transfer Certificate of Title (TCT) No. T-315273 in the name of Ganzon Yap, married to Haima Yap, is declared **NULL** and **VOID**, and the Registry of Deeds of Davao City is hereby **DIRECTED** to cancel TCT No. T-315273, and to issue a new title reinstating TCT No. T-112717 in the name of Rosa Elsa S. Serrano; and

- c) Ganzon and Haima Yap and/or whoever is in possession of the subject property, or their agents and those acting for in their behalf are hereby **DIRECTED** to **VACATE** the subject property and surrender the possession of the same to plaintiff-appellant Rosa Elsa Serrano-Jonas.

SO ORDERED.⁹

Aggrieved, Spouses Bitte moved for reconsideration, but their motion was denied by the CA on February 26, 2014.¹⁰

Hence, this petition by the petitioners, Farida Yap Bitte and the Heirs of Benjamin Bitte.¹¹

ISSUES

I

WHETHER OR NOT THE COURT OF APPEALS-MINDANAO STATION DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT ALLOWED THE APPELLANTS BRIEF FILED BY RESPONDENTS IN VIOLATION OF SECTION 7, RULE 44 OF THE RULES OF COURT

II

WHETHER OR NOT THE RULING OF THE COURT OF APPEALS FINDING THE REVOCATION OF THE SPA, DESPITE LACK OF BASIS, ENFORCEABLE AGAINST THIRD PERSONS IS IN ACCORD WITH LAW.

III

WHETHER OR NOT THE RULING OF THE COURT OF APPEALS FINDING THE DEED OF SALE INVALID IS SUPPORTED BY STRONG AND CONCLUSIVE EVIDENCE AS REQUIRED BY LAW.

IV

WHETHER OR NOT THE RULING OF THE COURT OF APPEALS DISREGARDING THE LEGAL EFFECTS OF THE FORECLOSURE SALE IS A DEPARTURE FROM THE ESTABLISHED JURIDICIAL PRONOUNCEMENTS.

⁹ Id. at 145.

¹⁰ Id. at 166-167. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Romulo V. Borja and Edward B. Contreras, concurring.

¹¹ Hereinafter still referred to as Spouses Bitte for continuity and consistency.

V

WHETHER OR NOT THE RULING OF THE COURT OF APPEALS NOT FINDING GANZON YAP AS INNOCENT PURCHASER FOR VALUE IS CONSISTENT WITH THE PRINCIPLE OF INDEFEASIBILITY OF TITLE.¹²

In advocacy of their positions, the petitioners submit the following arguments:

1. The deed of absolute sale executed by Andrea was valid and legal because the SPA was not validly revoked as the revocation was not registered in the Office of the Register of Deeds of Davao City. Thus, Andrea's authority to transact with them on behalf of Rosa Elsa subsisted.
2. The CA decision, declaring the deed of absolute sale null and void, directing the cancellation of TCT No. T-315273, and reinstating TCT No. T-112717, without attacking the auction sale and redemption made by Spouses Bitte was a highly questionable act.
3. Considering that the deed of absolute sale was valid, they could redeem the property pursuant to Act. No. 3135, as amended, and Sec. 27 of Rule 39 of the Rules of Court.
4. No evidence was presented showing that Ganzon indeed bought the property in bad faith considering that the TCT No. T-112717 did not bear any annotation that should have alarmed him before buying the property. Ganzon could not have been expected to go beyond the title and look for vices or defects that could have rendered him not a purchaser in good faith and for value.

In their *Comment*,¹³ Spouses Jonas called the attention of the Court to the fact that Spouses Bitte had been declared in default by the RTC. Spouses Jonas contended that, being in default, Spouses already lost the legal personality to resort to this petition. They also averred that the questions presented in this petition are one of facts and not of law. Not being a trier of facts, this Court must deny the petition.

On the merits, they argued that the SPA was not enforceable; that the deed of absolute sale executed by Andrea was a nullity because it was made with knowledge on the part of Spouses Bitte of the revocation of Andrea's

¹² *Rollo*, pp. 14-15.

¹³ *Id.* at 191-206.

authority; and that Spouses Yap could not be considered purchasers in good faith as they failed to verify the authority of the vendors, Spouses Bitte, considering that the certificate of title was still under Rosa Elsa's name.

In their *Reply*,¹⁴ Spouses Bitte reiterated their positions as set out in their petition.

Ruling of the Court

The Court denies the petition.

Procedural Issues

Before tackling the substantive issues, a few procedural matters must first be threshed out.

The *first* is on the issue of the personality of the petitioners to file this petition. Spouses Jonas claim that the door to any reliefs for Spouses Bitte, be it through a motion for reconsideration or this subject petition, was closed by the finality and immutability of the RTC declaration of their default. In other words, it is their stand that the petitioners do not have the right to obtain recourse from this Court.

Spouses Jonas are mistaken.

The rule is that "right to appeal from the judgment by default is not lost and can be done on grounds that the amount of the judgment is excessive or is different in kind from that prayed for, or that the plaintiff failed to prove the material allegations of his complaint, or that the decision is contrary to law."¹⁵ If a party who has been declared in default has in his arsenal the remedy of appeal from the judgment of default on the basis of the decision having been issued against the evidence or the law, that person cannot be denied the remedy and opportunity to assail the judgment in the appellate court. Despite being burdened by the circumstances of default, the petitioners may still use all other remedies available to question not only the judgment of default but also the judgment on appeal before this Court. Those remedies necessarily include an appeal by *certiorari* under Rule 45 of the Rules of Court.

The *second* is on the propriety of the questions raised in the petition. Spouses Jonas claims that that the issues raised here, being factual, are

¹⁴ Id. at 255-265.

¹⁵ *Rural Bank of Sta. Catalina, Inc. v. Land Bank of the Philippines*, 479 Phil. 43, 52 (2004).

inappropriate for being beyond the inquiry of this Court; that the factual findings of the CA could no longer be modified or even reviewed citing the long standing rule that they are final and conclusive. Although the rule admits of exceptions, they insist that none of them obtains in this case.

Indeed, the questions forwarded by Spouses Bitte are without doubt factual issues. This Court, being not a trier of facts, has no recourse but to give credence to the findings of the CA. Although it is true that there are exceptions as enumerated in *Development Bank of the Philippines v. Traders Royal Bank*,¹⁶ none of these were invoked or cited in the petition.

On that score alone, this petition should be denied outright.

Substantive Issues

The Genuineness and Due Execution of the Deed of Sale in favor of Spouses Bitte were not proven

The Court agrees with the CA that the genuineness and due execution of the deed of sale in favor Spouses Bitte were not established. Indeed, a notarized document has in its favor the presumption of regularity. Nonetheless, it can be impugned by strong, complete and conclusive proof of its falsity or nullity on account of some flaws or defects on the document.¹⁷

In the case at bench, it is on record that the National Archives, Records Management and Archives Office, Regional Archives Division, Davao City, certified that it had no copy on file of the Deed of Absolute Sale, dated February 25, 1997, sworn before Atty. Bernardino N. Bolcan, Jr., denominated as Doc. No. 988, Page No. 198, Book No. 30, Series of 1997. Their record shows that, instead, the document executed on said date with exactly the same notarial entries pertained to a Deed of Assignment of Foreign Letter of Credit in favor of Allied Banking Corporation.¹⁸ Such

¹⁶ 642 Phil. 547 (2010). The exceptions to the rule that factual findings of the Court of Appeals are binding on the Court are: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

¹⁷ *Naranja v. Court of Appeals*, 603 Phil. 779, 788 (2009).

¹⁸ Exhibits "J" and "K" for Civil Case No. 27,667-99, Folder of Exhibits.

irrefutable fact rendered doubtful that the subject deed of absolute sale was notarized.

Article 1358 of the New Civil Code requires that the form of a contract transmitting or extinguishing real rights over immovable property should be in a public document. Pertinently, Section 19, Rule 132 of the Rules of Court reads:

Section 19 *Classes of documents.*- For the purposes of their presentation in evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledged before a notary public except last wills and testaments; and
- (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

Not having been properly and validly notarized, the deed of sale cannot be considered a public document. It is an accepted rule, however, that the failure to observe the proper form does not render the transaction invalid. It has been settled that a sale of real property, though not consigned in a public instrument or formal writing is, nevertheless, valid and binding among the parties, for the time-honored rule is that even a verbal contract of sale or real estate produces legal effects between the parties.¹⁹

Not being considered a public document, the deed is subject to the requirement of proof under Section 20, Rule 132, which reads:

Section 20. *Proof of private document.*- Before any private document offered as authentic is received in evidence its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

¹⁹ *Tigno v. Spouses Aquino*, 486 Phil. 254, 268 (2004).

Accordingly, the party invoking the validity of the deed of absolute sale had the burden of proving its authenticity and due execution. Unfortunately, Spouses Bitte were declared as in default and, for said reason, they failed to discharge such burden in the court below. Thus, the Court agrees with the CA that the RTC erred in applying the presumption of regularity that attaches only to duly notarized documents as distinguished from private documents.

Without the presumption of regularity accorded to the deed coupled with the default of the party relying much on the same, the purported sale cannot be considered. It is as if there was no deed of sale between Spouses Bitte and Spouses Jonas.

The genuineness and due execution of the deed of sale in favor of Spouses Bitte not having been established, the said deed can be considered non-existent.

Spouses Bitte, however, are questioning the “non-existent” deed of sale.

Granting that its genuineness and due of execution were proven, the deed of sale is still unenforceable; Doctrine of Apparent Authority

Granting arguendo that the deed of sale may still be considered, the transaction is, nevertheless, unenforceable.

In this regard, petitioners posit that the deed must be recognized and enforced for the reason that, despite the revocation of the authority of Andrea prior to the execution of the deed, they should not be bound by that revocation for lack of notice. Consequently, they contend that as far as they are concerned, the contract of sale should be given effect for having been executed by someone appearing to them as authorized to sell.

They further argue that the failure of Rosa Elsa to register, file and enter the deed of revocation in the Registry of Deeds did not bind Spouses Bitte under Section 52 of the Property Registration Decree. Said section provides that “[e]very conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the Office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering.” It is their position that without the registration of the revocation, they cannot

be bound by it and the Court must respect the sale executed by her agent, Andrea.

The Court is not persuaded.

Basic is the rule that the revocation of an agency becomes operative, as to the agent, from the time it is made known to him. Third parties dealing *bona fide* with one who has been accredited to them as an agent, however, are not affected by the revocation of the agency, unless notified of such revocation.²⁰ This refers to the doctrine of apparent authority. Under the said doctrine, acts and contracts of the agent within the apparent scope of the authority conferred on him, although no actual authority to do such acts or has been beforehand withdrawn, revoked or terminated, bind the principal.²¹ Thus, as to a third person, “apparent authority, when present, trumps restrictions that the principal has privately imposed on the agent. The relevant appearance is that the principal has conferred authority on an agent. An actor may continue to possess apparent authority although the principal has terminated the actor's actual authority or the agency relationship between them. This is so because a third party may reasonably believe that the actor continues to act as an agent and within the scope of actual authority on the basis of manifestations previously made by the principal. Such a manifestation, once made, remains operative until the third party has notice of circumstances that make it unreasonable to believe that the actor continues to have actual authority.”²² Hence, apparent authority may survive the termination of actual authority or of an agency relationship.²³

To persons who relied in good faith on the appearance of authority, no prejudice must be had by virtue of such reliance on what appeared to them as perfectly in accordance with the observable authority of an agent. It must not be disturbed unless it can be shown that they had been notified or became aware of the termination of the agency. Stated differently, a third party cannot be bound by a revocation unless he had notice or knowledge of such revocation.

The notice or knowledge may be actual or implied. In either case, there is no apparent authority to speak of and all contracts entered into by the former agent with a third person cannot bind the principal. The reason behind this is that a third person cannot feign ignorance of facts which should have put him on guard and which he had a means of knowing.

²⁰ State of Indiana Legislators, Restatement of the Law of Agency with Annotations to the Indiana Decisions, 11 Notre Dame L. Rev. 403 (1936), citing *Miller v. Miller*, 4 Ind. App. 128, 30 N. E. 535, (1892). (<http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4133&context=ndlr>) (Last visited September 2, 2015).

²¹ See *Banate v. Philippine Countryside Rural Bank*, 639 Phil. 35 (2010), citing 2 Am. Jur. 102.

²² Restatement, 3d of Agency, § 7.08.

²³ Restatement, 3d of Agency, § 2.03

“Apparent authority ends when it is no longer reasonable for the third party with whom an agent deals to believe that the agent continues to act with actual authority.”²⁴ In *Cervantes v. Court of Appeals*,²⁵ the Court wrote that “when the third person, knows that the agent was acting beyond his power or authority, the principal cannot be held liable for the acts of the agent.”

Generally, implied notice, also known as constructive notice, is attributed to third persons through the registration of the termination in the Registry of Deeds.

Under Article 1924 of the New Civil Code, “an agency is revoked if the principal directly manages the business entrusted to the agent, dealing directly with third persons.” Logic dictates that when a principal disregards or bypasses the agent and directly deals with such person in an incompatible or exclusionary manner, said third person is deemed to have knowledge of the revocation of the agency. They are expected to know circumstances that should have put them on guard as to the continuing authority of that agent. The mere fact of the principal dealing directly with the third person, after the latter had dealt with an agent, should be enough to excite the third person’s inquiring mind on the continuation of his authority.

In the case at bench, records show that Spouses Bitte initially transacted with Andrea as Rosa Elsa’s agent on the basis of the SPA, dated July 19, 1985. Thereafter, however, Rosa Elsa returned to the Philippines and directly negotiated with them on October 11, 1996. Rosa Elsa’s act of taking over in the actual negotiation for the sale of the property only shows that Andrea’s authority to act has been revoked pursuant to Article 1924. At that point, Spouses Bitte had information sufficient enough to make them believe that Andrea was no longer an agent or should have compelled them to make further inquiries. No attempt was shown that Spouses Bitte took the necessary steps to inquire if Andrea was still authorized to act at that time. Despite their direct negotiation with Rosa Elsa, they still entered into a contract with Andrea on February 25, 1997.

Persons dealing with an agent are bound at their peril, if they would hold the principal liable, to ascertain not only the fact of agency but also the nature and extent of the agents authority, and in case either is controverted, the burden of proof is upon them to establish it.²⁶

²⁴ Section 3.1.1 Restatement (Third) Of Agency § 2.03 (2006), as adopted and Promulgated by the American Law Institute at Washington, D.C.,

²⁵ 363 Phil. 399 (1999).

²⁶ *Banate v. Philippine Countryside Rural Bank*, supra note 21, citing *Manila Memorial Park Cemetery, Inc. v. Linsangan*, 485 Phil. 764 (2004).

Legal Consequence

“It is a basic axiom in civil law embodied in our Civil Code that no one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him. A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party.”²⁷ Considering that the sale was executed by an agent whose authority, be it actual or apparent, had been revoked, the transaction is **unenforceable** pursuant to Article 1317 and 1403(1) of the Civil Code which read:

Article 1317. No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him.

A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be **unenforceable**, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party. (1259a)

ART. 1403. The following contracts are **unenforceable**, unless they are ratified:

(1) Those entered into the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers;

xxx. [Emphases Supplied]

Considering that the deed of absolute sale was executed at a time when Spouses Bitte were deemed notified of the termination of the agency, the sale must be treated as having been entered into by Andrea in her personal capacity. One can sell only what one owns or is authorized to sell, and the buyer can acquire no more right than what the seller can transfer legally.²⁸ Accordingly, Spouses Bitte acquired no better title than what Andrea had over the property, which was nil.

In sum, the deed of absolute sale executed by Andrea in favor of Spouses Bitte is unenforceable against Rosa Elsa because of their notice of the revocation of the agency.

²⁷ *Ramon Rallos v. Felix Go Chan And Sons Realty Corporation*, 171 Phil. 222, 226 (1978).

²⁸ *Rufloe v. Burgos*, 597 Phil. 261(2009), citing *Consolidated Rural Bank, Inc. v. CA*, 489 Phil. 320 (2005).

Spouses Bitte did not possess the required personality to redeem the subject property

Obviously, Spouses Bitte acquired no interest in the subject property because the deed that they were anchoring their claims on did not bind Rosa Elsa. Hence, they did not have the personality to redeem the foreclosed property as provided under Act No. 3135, as amended by Act No. 4118, and of Section 27, Rule 39 of the Rules of Court.

Act No. 3135, as amended, provides:

SEC. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the **debtor**, his **successors in interest** or any **judicial creditor** or **judgment creditor of said debtor**, or any **person having a lien** on the property subsequent to the mortgage or deed of trust under which the property is sold, **may redeem** the same at any time within the term of one year from and after the date of the sale; and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act.

[Emphases Supplied]

Section 27 of Rule 39 of the Rules of Court enumerates the persons who may exercise the right of redemption of a foreclosed property:

Section 27. *Who may redeem real property so sold.* — Real property sold as provided in the last preceding section, or any part thereof sold separately, may be redeemed in the manner hereinafter provided, by the following persons:

- (a) The judgment obligor; or his successor in interest in the whole or any part of the property; and
- (c) A creditor having a lien by virtue of an attachment, judgment or mortgage on the property sold, or on some part thereof, subsequent to the lien under which the property was sold. Such redeeming creditor is termed a redemptioner.

In *Castro v. IAC*,²⁹ as correctly cited by the CA, “only such persons as are authorized to do so by statute can redeem from an execution sale.” Spouses Bitte were not so authorized considering that they were not among those enumerated in Act No. 3135 and Section 27 of Rule 39.

²⁹ 248 Phil. 95 (1988), citing 33 CJS 525.

*Spouses Yap were also not
Purchasers in Good Faith and
For Value*

After the purported “transfer” to Spouses Yap, the subject property was registered and a new title was issued in their names. Despite being impleaded in the case, however, they were silent and **did not even join Spouses Bitte in the subject petition**. It is Spouses Bitte who have been taking the cudgels for them.

On the issue, Spouses Bitte contend that Spouses Yap were purchasers in good faith and for value, and, for that reason, should have been recognized to have good title over the subject property.

Settled is the rule that the burden of proving the status of a purchaser in good faith and for value lies upon one who asserts that status.³⁰ This *onus probandi* cannot be discharged by mere invocation of the ordinary presumption of good faith.³¹ Considering that the title was still registered in the name of Rosa Elsa when Spouses Yap bought it from Spouses Bitte, the burden was on them to prove that they were purchasers in good faith. In this regard, they failed. Not an iota of evidence was adduced by them to prove their ignorance of the true situation.

Through Spouses Bitte, Spouses Yap are invoking good faith for want of notice on their part that Andrea’s authority had already been revoked. They point out that Ganzon, being a layman, could not have been expected to know the intricacies of the law for which reason that he could not attribute any fault in the deed of sale executed by a person with a SPA.

The Court is not persuaded.

Spouses Yap were not purchasers in good faith and for value. Significantly, Ganzon transacted with someone who was not even the registered owner of the property. At the time of the transfer, the property was still registered in the name of Rosa Elsa.

The rule is that a person who buys from one who is not the registered owner is expected to “examine not only the certificate of title but all factual circumstances necessary for [one] to determine if there are any flaws in the title of the transferor, or in [the] capacity to transfer the land. A higher

³⁰ *Heirs of Bucton v. Go*, G.R. No. 188395, November 20, 2013, 710 SCRA 457, citing *Rufloe v. Burgos*, 597 Phil. 261 (2009).

³¹ *Id.*

degree of prudence is thus expected from that person even if the land object of the transaction is registered.”³²

Here, no evidence was presented to show that Spouses Yap exerted that required diligence in determining the factual circumstances relating to the title and authority of Spouses Bitte as sellers of the property. The records are bereft of any proof that Spouses Yap showed eagerness to air their side despite being impleaded.

Hence, the protection the law accords to purchasers in good faith and for value cannot be extended to them. They have failed to show the required diligence needed in protecting their rights as buyers of property despite knowledge of facts that should have led them to inquire and investigate the possible defects in the title of the seller. Thus, in the same way that Spouses Bitte cannot claim valid title over the property, Spouses Yap cannot also do the same.

A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor.³³

In sum, the transfer to Spouses Yap was null and void as Spouses Bitte had nothing to sell or transfer to them.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

³² *Heirs of Sarili v. Lagrosa*, G.R. No. 193517, January 15, 2014, (http://sc.judiciary.gov.ph/pdf_web/viewer.html?file=/jurisprudence/2014/january2014/193517.pdf) (last visited September 7, 2015), citing *Bautista v. CA*, G.R. No. 106042, February 28, 1994, 230 SCRA 446, 456.

³³ *Rosaroso v. Soria*, G.R. No. 194846, June 19, 2013, 699 SCRA 232, citing *Spouses Sarmiento v. Court of Appeals*, 507 Phil. 101,127-129 (2005).

WE CONCUR:



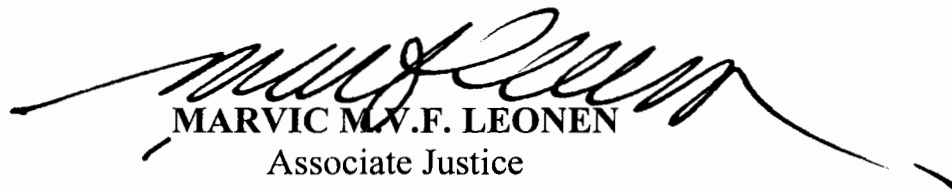
ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.




ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice