

**FLORENTINA BAUTISTA-SPILLE, REP. BY HER ATTY-IN-FACT,
MANUEL B. FLORES, JR., PLAINTIFFS-APPELLEE, VS. NICORP
MANAGEMENT AND DEVELOPMENT, CORP., ET. AL., DEFENDANTS,
NICORP MANAG...**

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

Before Us is an appeal seeking to set aside the Decision[1] dated 24 May 2010 rendered by Branch 90, Regional Trial Court of Dasmariñas, Cavite in CIVIL CASE NO. 0321-04, which nullified the contract to sell entered into by defendant-appellant and plaintiff-appellee's brother Benjamin Bautista.

The Facts

The factual antecedents as may be culled from the records:

Plaintiff-appellee is a resident of the United States. On 20 June 1996, plaintiff-appellee executed a document denominated as a General Power of Attorney (GPA)[2] in favor of his brother Benjamin Bautista. The GPA includes, among others, the power to buy, sell and contract in behalf of the plaintiff-appellee.[3]

On 13 October 2004, Benjamin Bautista and defendant-appellant NICORP Management and Development Corporation entered into a contract to sell.[4] The contract to sell pertains to a parcel of land covered by TCT No. T-197 situated in Imus, Cavite containing an area of 33,052 square meters, more or less. The agreed amount of the parcel of land is Php15,000,000.00. The buyer agreed to make a down payment of 20% of the purchase price and the remaining balance payable in 8 months. It was also agreed that upon payment of the down payment, the Transfer Certificate of Title will be deposited and placed in ESCROW in International Exchange Bank and will only be released upon full payment.

On 14 October 2004, defendant-appellant issued check[5] in favor of plaintiff-appellee Florentina Bautista-Spille representing the down payment of the property subject of the contract to sell. The Title was also deposited and placed in ESCROW at the International Exchange Bank.[6]

However, on 27 October 2004, plaintiff-appellee, through counsel, sent defendant-appellant NICORP a demand letter[7] informing the latter that Benjamin Bautista is not clothed with authority to enter into the contract to sell in behalf of the plaintiff-appellee. That it was Manuel Flores, Jr. is the one authorized to transact in behalf of plaintiff-appellee. On 17 November 2004, plaintiff-appellee filed a Complaint[8] for Declaration of Nullity of the Contract to Sell, Injunction, Recovery of Possession and Damages.

After the defendant bank filed its Answer[9] with Counterclaim, trial ensued where the plaintiffs presented its lone witness, Manuel Flores, Jr., while the defendant presented as its witnesses Ma. Theresa Dominguez and Joseph Estigoy.

On 24 May 2010, the court a quo rendered Decision[10] in favor of plaintiffs appellants, the dispositive portion of

which reads :

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants, declaring the Contract to Sell, dated October 13, 2004 between the defendant Bautista and NICORP to be null and void, and the writ of preliminary injunction is now made permanent, and further ordering the defendants NICORP and International Exchange Bank, as follows:

- (a) To return to the plaintiff the peaceful possession of the subject property covered by Transfer Certificate of Title No. T-197 of the Register of Deeds of the Province of Cavite;
- (b) To return to the plaintiff the Original Owner's Duplicate Title No. T-197 of the Register of Deeds of the Province of Cavite;
- (c) To pay to the plaintiff the amount of Php250,000.00 by way of attorney's fees; and
- (d) The Costs of Suit.

SO ORDERED.”

1.

Aggrieved, defendant-appellant NICORP interposed the instant appeal with the following assignment of errors:

ASSIGNMENT OF ERRORS

a) THE HONORABLE TRIAL COURT ERRED IN DECLARING THE CONTRACT TO SELL BETWEEN DEFENDANT BAUTISTA AND NICORP NULL AND VOID.

b) THE HONORABLE TRIAL COURT ERRED IN GRANTING THE WRIT OF PRELIMINARY INJUNCTION FILED BY PLAINTIFF-APPELLEE.

c) THE HONORABLE TRIAL COURT ERRED IN DISREGRADING THE FACT THAT DEFENDANT-APPELLANT IS A PURCHASER IN GOOD FAITH.

Our Ruling

Plainly, the focal issue in the instant case is whether or not Benjamin Bautista was authorized to enter into the Contract to Sell in behalf of his sister, Florentina Bautista-Spille.

The appeal is impressed with merit.

The assailed decision centers its stance with the posture that Benjamin Bautista was not authorized to sell the property. The court a quo was adamant that the general power of attorney is not sufficient to clothe Benjamin Bautista the power to enter into the purported Contract to Sell. It also posits that the general power of attorney

issued in favor of Benjamin Bautista was couched in general terms which comprises only acts of administration, thus, a special power of attorney is still needed in order to authorize Benjamin Bautista to enter into such Contract to Sell.[11]

We do not agree.

According to the provisions of Article 1874[12] of the Civil Code on Agency, when the sale of a piece of land or any interest therein is made through an agent, the authority of the latter shall be in writing. Absent this requirement, the sale shall be void. Also, under Article 1878,[13] a special power of attorney is necessary in order for an agent to enter into a contract by which the ownership of an immovable property is transmitted or acquired, either gratuitously or for a valuable consideration.

However, a general power of attorney may include a special power if such special power is mentioned or referred to in the general power, e.g., “I authorize you to sell ALL my properties.”[14] Where the power of attorney says that the agent can enter into any contract concerning a land, or can sell the land under any term or condition and condition he may think fit, the power granted is so broad that it practically covers the celebration of any contract and the conclusion of any covenant or stipulation, and it undoubtedly means that the agent can act in the same manner and with same breadth and latitude as the principal could concerning the property.[15] In the case of Estate of Lino Olaguer vs. Ongjoco,[16] the Supreme Court held that:

“xxx While the law requires a special power of attorney, the general power of attorney was sufficient in this case, as Jose A. Olaguer was expressly empowered to sell any of Virgilio's properties; and to sign, execute, acknowledge and deliver any agreement therefor. Even if a document is designated as a general power of attorney, the requirement of a special power of attorney is met if there is a clear mandate from the principal specifically authorizing the performance of the act. The special power of attorney can be included in the general power when the act or transaction for which the special power is required is specified therein.” xxx (emphasis ours)

Here, there is no dispute that plaintiff-appellee duly executed in favor of Benjamin Bautista a general power of attorney which was notarized by the Philippine Consulate in New York, USA. The lone witnesses of the plaintiff-appellee even admitted the existence of the said general power of attorney.[17] In fact, he even admitted that he had no knowledge of any document that was executed that repudiates or revokes the general power of attorney executed in favor of Benjamin Bautista.[18]

The only question that lingers is: Did the general power of attorney authorized Benjamin Bautista to enter into the purported Contract to Sell with defendant-appellant?

The answer should be in the affirmative.

A careful perusal of the general power of attorney readily shows that Benjamin Bautista was not only empowered to perform acts of administration over all the property of his sister, but, he is also empowered to perform acts of dominion such as entering into the purported Contract to Sell covering the property subject of the instant case. Particularly, item numbers 1, 8 and 9 of the general power of attorney authorized Benjamin Bautista to sell the subject property, to wit:

1. “To exercise administration, general control and supervision over my/our business and property in the Philippines, and to act as my/our general representative and agent(s) with full authority to buy, sell, negotiate and contract for me/us and my/our behalf.

2. xxx xxx
3. xxx xxx
4. xxx xxx
5. xxx xxx
6. xxx xxx
7. xxx xxx

8. To make, sign, seal, execute and deliver contracts, documents, agreements and other writings upon such terms and conditions acceptable to my/our said attorney(s).

9. In general, to do all other acts, deeds, matters and things whatsoever, in or about my/our estate, property and affairs, or to concur with persons jointly interested with myself/ourselves therein doing all acts, deeds, matters, and things herein particularly or generally describe, as fully and effectually to all intents and purposes as I/we could do in my/our own proper person(s) if personally present.” (emphasis ours)

Prescinding from the above quoted provisions in the general power of attorney, without doubt, plaintiff-appellee expressly authorized her brother to sell, negotiate and contract in her behalf not only with regard to the subject property but to all her estate, property and affairs. Taken together, the provisions under item numbers 1, 8 and 9 constitute a clear and specific mandate to Benjamin Bautista to sell the subject property. Even if it is called a "general power of attorney," the specific provisions in the GPA are sufficient for the purposes of Article 1878. These provisions in the GPA likewise indicate that plaintiff-appellee consented to the Contract to Sell covering the subject property. Thus, We cannot agree with the court a quo's conclusion that nothing in the general power of attorney in question would show that the power given to Benjamin Bautista was to sell all the properties of the plaintiff-appellee.[19]

Undoubtedly, Benjamin Bautista was clothed with full authority to enter into the purported Contract to Sell. Nothing in the records would show that said authority of Benjamin Bautista was ever revoked by plaintiff-appellee as testified to by the plaintiff-appellee's lone witness, Manuel B. Flores, Jr.

Furthermore, in the assailed decision, the court a quo also pointed out that defendant-appellant even doubted the capacity of Benjamin Bautista to enter into the Contract to Sell because they even included in the Contract to Sell as one of the obligations of Benjamin Bautista in the agreement is to submit a current Special Power of Attorney.[20]

First, in its brief, defendant-appellant sufficiently explained that the submission of a current SPA is only for the requirements they must present with the Register of Deeds and the Bureau of Internal Revenue for the eventual transfer of the title in defendant-appellant's name.[21] Moreover, We agree with defendant-appellant's justification that if they doubted the capacity of Benjamin Bautista to contract with them covering the subject property, they would not have parted with the P3,000,000.00 they paid representing down payment for the purchase of the subject property.

Second, the GPA presented by Benjamin Bautista contained the signature of plaintiff-appellee and her husband and was duly notarized by the Philippine Consulate in New York, USA. As such, the same is considered a public document and it has in its favor the presumption of authenticity and due execution, which can only be contradicted by clear and convincing evidence.[22] No evidence was presented to overcome the presumption in favor of the duly notarized Power of Attorney. Neither was there any evidence nor any circumstance that would have aroused the suspicion of the defendant-appellant. It bears to reiterate that plaintiff-appellee's lone witness, Manuel B. Flores, Jr. even testified that he does not have knowledge of any document that revokes the GPA in favor of Benjamin Bautista.

Lastly, even assuming that defendant-appellant had entertained doubts as to the capacity of Benjamin Bautista, it

will not invalidate the Contract to Sell that was duly executed. What would really render the Contract to Sell null and void is if it can be established that Benjamin Bautista had no authority to enter into the said contract. As already discussed, the provisions of the GPA, particularly item numbers 1, 8 and 9, are so broad that it practically covers the celebration of any contract and the conclusion of any covenant or stipulation, and it undoubtedly means that the agent can act in the same manner and with same breadth and latitude as the principal could concerning the property.[23]

Now, since We have concluded that Benjamin Bautista was duly empowered to sell the subject property under the general power of attorney, therefore, it follows that the lower court clearly erred in declaring the Contract to Sell as null and void.

WHEREFORE, premises considered, the instant appeal is hereby GRANTED and the Decision dated 24 May 2010 rendered by Branch 90, Regional Trial Court of Dasmariñas, Cavite in CIVIL CASE NO. 0321-04 is hereby REVERSED and SET ASIDE. No pronouncement as to costs.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, pp. 59-70

[2] Records, pp. 19, 19 dorsal side & 20

[3] Supra, note 2 (GPA item numbers 1, 8 & 9)

[4] Records, pp. 21-24

[5] Ibid., p.25

[6] Ibid., p. 32

[7] Ibid., p. 33

[8] Supra, Note 1

[9] Ibid., pp. 136-145

[10] Supra, note 1

[11] Rollo., pp. 68-69

[12] Art. 1874. When a sale of a piece of land or any interest therein is through an agent, the authority of the latter shall be in writing; otherwise, the sale shall be void.

[13] Art. 1878. Special powers of attorney are necessary in the following cases:

x x x x x

(5) To enter into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration;

x x x x x

[14] Civil Code of the Philippines Annotated 16th Edition, 2008, Paras, p. 796

[15] Comments and Cases on Partnership, Agency and Trusts 5th Edition, Hector De Leon, p. 417 (citing P. Amigo and J. Amigo vs. Teves, 96 PHIL 252 (1954))

[16] G.R. No. 173312, August 26, 2008

[17] TSN., December 20, 2004, pp. 13-14

[18] Ibid., pp. 18-19

[19] Rollo, p. 69

[20] Ibid., p. 69

[21] Ibid., p. 50

[22] Domingo v. Robles, G.R. No. 153743, 18 March 2005, 453 SCRA 812

[23] Supra, note 15

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