

PHILIPPINE NATIONAL BANK, PLAINTIFF-APPELLEE, VS. MAXIMO STA. MARIA, ET AL., DEFENDANT, VALERIANA, EMETERIA, TEOFILO, QUINTIN, ROSARIO AND LEONILA, ALL SURNAMED STA. MARIA, DEFE...

G.R. No. L-24765. August 29, 1969

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this appeal certified to this Court by the Court of Appeals as involving purely legal issues, we hold that a special power of attorney to mortgage real estate is limited to such authority to mortgage and does not bind the grantor personally to other obligations contracted by the grantee, in the absence of any ratification or other similar act that would estop the grantor from questioning or disowning such other obligations contracted by the grantee.

Plaintiff bank filed this action on February 10, 1961 against defendant Maximo Sta. Maria and his six brothers and sisters, defendants-appellants, Valeriana, Emeteria, Teofilo, Quintin, Rosario and Leonila, all surnamed Sta. Maria, and the Associated Insurance & Surety Co., Inc. as surety, for the collection of certain amounts representing unpaid balances on two agricultural sugar crop loans due allegedly from defendants.[1]

The said sugar crop loans were obtained by defendant Maximo Sta. Maria from plaintiff bank under a special power of attorney, executed in his favor by his six brothers and sisters, defendants-appellants herein, to mortgage a 16-odd hectare parcel of land, jointly owned by all of them, the pertinent portion of which reads as follows:

"That we, VALERIANA, EMETERIA, TEOFILO, QUINTIN, ROSARIO and LEONILA all surnamed STA. MARIA, sole heirs of our deceased parents CANDIDO STA. MARIA and FRANCISCA DE LOS REYES, all of legal age, Filipinos, and residents of Dinalupihan, Bataan, do hereby name, constitute and appoint Dr. MAXIMO STA. MARIA, of legal age, married, and residing at Dinalupihan, Bataan to be our true and lawful attorney of and in our place, name and stead to mortgage, or convey as security to any bank, company or to any natural or juridical person, our undivided shares over a certain parcel of land together with the improvements thereon which parcel of land is more particularly described as follows to wit:

"Situated in the barrio of Pinulot, municipality of Dinalupihan, Bataan, containing an area of 16,7249 hectares and bounded as follows to wit: North by property of Alejandro Benito; on the Northeast, by public land and property of Tomas Tulop on the southeast, by property of Ramindo Agustin; on the southwest, by properties of Jose V. Reyes and Emilio Reyes; and on the northwest, by excluded portion claimed by Emilio Reyes.

of which parcel of land aforementioned we are together with our said attorney who is our brother, the owners in equal undivided shares as evidenced by Transfer Certificate of Title No. T-2785 of the Registry of Deeds of Bataan dated Feb. 26th 1951." (Exh. E)[2]

In addition, Valeriana Sta. Maria alone also executed in favor of her brother, Maximo, a special power of attorney

to borrow money and mortgage any real estate owned by her, grant-ing him the following authority:

"For me and in my name to borrow money and make, execute, sign and deliver mortgages of real estate now owned by me standing in my name and to make, exe-cute, sign and deliver any and all promissory notes necessary in the premises." (EXH. E-1)[3]

By virtue of the two above powers, Maximo Sta. Maria applied for two separate crop loans, for the 1952-1953 and 1953-1954 crop years, with plaintiff bank, one in the amount of P15,000.00, of which only the sum of P13,216.11 was actually extended by plaintiff, and the other in the amount of P23,000.00, of which only the sum of P12,427.57 was actually extended by plaintiff. As security for the two loans, Maximo Sta. Maria executed in his own name in favor of plaintiff bank two chattel mortgages on the standing crops, gua-ranteed by surety bonds for the full authorized amounts of the loans executed by the Associated Insurance & Surety Co., Inc. as surety with Maximo Sta. Maria as principal. The records of the crop loan application further disclose that among the securities given by Max-imo for the loans were a "2nd mortgage on 25,3023 Has. of sugar-land, including sugar quota rights therein" including the parcel of land jointly owned by Maximo and his six brothers and sisters herein for the 1952-1953 crop loan, with the notation that the bank already held a first mortgage on the same properties for the 1951-1952 crop loan of Maximo,[4] and a 3rd mortgage on the same properties for the 1953-1954 crop loan.[5]

The trial court rendered judgment in favor of plaintiff and against defendants thus:

"WHEREFORE, premises considered, judgment is hereby rendered condemning the defendant Maximo R. Sta. Maria and his co-defendants Valeriana, Quintin, Rosario, Emeteria, Teofilo, and Leonila all surnamed Sta. Maria and the Associated Insurance and Surety Com-pany, Inc., jointly and severally, to pay the plaintiff, the Philippine National Bank, Del Carmen Branch, as fol-lows:

"1. On the first cause of action, the sum of P8,500.72 with a daily interest of P0.83 on P6,100.00 at 6% per annum beginning August 21, 1963 until fully paid;

"2. On the second cause of action, the sum of P14,299.79 with a daily interest of P1.53 on P9,346.44 at 6% per annum, until fully paid; and

"3. On both causes of action the further sum equi-valent to 10% of the total amount due as attorney's fee as of the date of the execution of this decision, and the costs."[6]

Defendant Maximo Sta. Maria and his surety, defendant Associate Insurance & Surety Co., Inc. who did not resist the action, did not appeal the judgment. This appeal has been taken by his six brothers and sisters, defendants-appellants who reiterate in their brief their main contention in their Answer to the complaint that under the special power of attorney, Exh. E, they had not given their brother, Maximo, the authority to borrow money but only to mort-gage the real estate jointly owned by them; and that if they are liable at all, their liability should not go beyond the value of the property which they had authorized to be given as security for the loans ob-tained by Maximo. In their answer, defendants-appellants had fur-ther contended that they did not benefit whatsoever from the loans, and that the plaintiff bank's only recourse against them is to fore-close on the property which they had authorized Maximo to mort-gage.

We find the appeal of defendants appellants, except for defen-dant Valeriana Sta. Maria who had executed another special power of attorney, Exh. E-1, expressly authorizing Maximo to borrow money on her behalf, to be well taken.

1. Plaintiff bank has not made out a cause of action against defendants-appellants (except Valeriana), so as to hold them liable for the unpaid balances of the loans obtained by Maximo under the chattel mortgages executed by him

in his own name alone. In the early case of *Bank of P.I. vs. de Coster*, this Court, in holding that the broad power of attorney given by the wife to the husband to look after and protect the wife's interests and to transact her business did not authorize him to make her liable as a surety for the payment of the pre-existing debt of a third person, cited the fundamental construction rule that "where in an instrument powers and duties are specified and defined, that all of such powers and duties are limited and confined to those which are specified and defined, and that all other powers and duties are excluded." [7] This is but in accord with the disinclination of courts to enlarge an authority granted beyond the powers expressly given and those which incidentally flow or derive therefrom as being usual or reasonably necessary and proper for the performance of such ex-press powers. Even before the filing of the present, action this Court in the similar case of *De Villa vs. Fabricante* [8] had already ruled that where the power of attorney given to the husband by the wife was limited to a grant of authority to mortgage a parcel of land titled in the wife's name, the wife may not be held liable for the pay-ment of the mortgage debt contracted by the husband, as the author-ity to mortgage does not carry with it the authority to contract obli-gation. This Court thus held in the said case:

"Appellant claims that the trial court erred in hold-ing that only Cesario A. Fabricante is liable to pay the mortgage debt and not his wife who is exempt from liabili-ty. The trial court said: 'Only the defendant Cesario A. Fabricante is liable for the payment of this amount because it does not appear that the other defendant Maria G. de Fabricante had authorized Cesario A. Fabricante to contract the debt also in her name. The power of attorney was not presented and it is to be presumed that the power (of attorney) was limited to a grant of authority to Cesario A. Fabricante to mortgage the parcel of land covered by Trans-fer Certificate of Title in the name of Maria G. de Febri-cante.'

"We went over the contents of the deed of mortgage executed by Cesario Fabricante in favor of Appellant on April 18, 1944, and there is really nothing therein from which we may infer that Cesario was authorized by his wife to contract the obligation in her name. The deed shows that the authority was limited to the execution of the mortgage inso-far as the property of the wife is concerned. There is a difference between authority to mortgage and authority to contract obligation. Since the power of attorney was not pre-sented as evidence, the trial court was correct in presuming that that power was merely limited to a grant of authority to mortgage unless the contrary is shown." [9]

2. The authority granted by defendants-appellants (except Valeriana) unto their brother, Maximo, was merely to mortgage the property jointly owned by them. They did not grant Maximo any authority to contract for any loans in their names and behalf. Maximo alone, with Valeriana who authorized him to borrow money, must answer for said loans and the other defendants-appellants' only liability is that the real estate authorized by them to be mortgaged would be subject to foreclosure and sale to respond for the obligations contracted by Maximo. But they cannot be held personally liable for the payment of such obligations, as erroneously held by the trial court.

3. The fact that Maximo presented to the plaintiff bank Valeriana's additional special power of attorney expressly author-izing him to borrow money, Exh. E-1, aside from the authority to mortgage executed by Valeriana together with the other defen-dants-appellants also in Maximo's favor, lends support to our view that the bank was not satisfied with the authority to mortgage alone. For otherwise, such authority to borrow would have been deemed unnecessary and a surplusage. And having failed to require that Maximo submit a similar authority to borrow, from the other def-endants-appellants, plaintiff, which apparently was satisfied with the surety bond for repayment put up by Maximo, cannot now seek to hold said defendants-appellants similarly liable for the unpaid loans. Plaintiff's argument that "a mortgage is simply an accessory contract, and that to effect the mortgage, a loan has to be secured" [10] falls far short of the mark. Maximo had indeed secured the loan on his own account, and the defendants-appellants had authorized him to mortgage their respective undivided shares of the real property jointly owned by them as security for the loan. But that was the extent of their authority and consequent liability,

to have the real property answer for the loan in case of non-payment. It is not unusual in family and business circles that one would allow his property or an undivided share in real estate to be mortgaged by another as security, either as an accommodation or for valuable consideration, but the grant of such authority does not extend to assuming personal liability, much less solidary liability, for any loan secured by the grantee in the absence of express authority so given by the grantor.

4. The outcome might be different if there had been an ex-press ratification of the loans by defendants-appellants or if it had been shown that they had been benefited by the crop loans so as to put them in estoppel. But the burden of establishing such ratification or estoppel falls squarely upon plaintiff bank. It has not only failed to discharge this burden, but the record stands undisputed that defendant-appellant Quintin Sta. Maria testified that he and his co-defendants executed the authority to mortgage "to accommodate (my) brother Dr. Maximo Sta. Maria .. and because he is my brother, I signed it to accommodate him as security for whatever he may apply as loan. Only for that land, we gave him as security" and that "we brothers did not receive any centavo as benefit." [11] The record further shows plaintiff bank itself admitted during the trial that defendants-appellants "did not profit from the loan" and that they "did not receive any money (the loan proceeds) from (Maximo)" [12] No estoppel therefore can be claimed by plaintiff as against defendants-appellants.

5. Now, as to the extent of defendant Valeriana Sta. Maria's liability to plaintiff. As already stated above, Valeriana stands liable not merely on the mortgage of her share in the property, but also for the loans which Maximo had obtained from plaintiff bank, since she had expressly granted Maximo the authority to incur such loans. (Exh. E-1). Although the question has not been raised in appellants' brief, we hold that Valeriana's liability for the loans secured by Maximo is not joint and several or solidary as adjudged by the trial court, but only joint, pursuant to the provisions of Article 1207 of the Civil Code that "(T)he concurrence . . . of two or more debtors in one and the same obligation does not imply that . . . each one of the (debtors) is bound to render entire compliance with the prestation. There is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity." It should be noted that in the additional special power of attorney, Exh. E-1, executed by Valeriana, she did not grant Maximo the authority to bind her solidarily with him on any loans he might secure thereunder.

6. Finally, as to the 10% award of attorney's fees, this Court believes that considering the resources of plaintiff bank and the fact that the principal debtor, Maximo Sta. Maria, had not contested the suit, an award of five (5%) per cent of the balance due on the principal, exclusive of interests, i.e. a balance of P6,100.00 on the first cause of action and a balance of P9,346.44 on the second cause of action, per the bank's statements of August 20, 1963, (Exhs. Q-1 and BB-1, respectively) should be sufficient.

WHEREFORE, the judgment of the trial court against defendants-appellants EMETERIA, TEOFILO, QUINTIN, ROSARIO and LEONILA, all surnamed STA. MARIA is hereby reversed and set aside, with costs in both instances against plaintiff. The judgment against defendant-appellant VALERIANA STA. MARIA is modified in that her liability is held to be joint and not solidary, and the award of attorney's fees is reduced as set forth in the preceding paragraph, without costs in this instance.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, and Barredo, JJ., concur. Reyes, J.B.L., J., is on official leave.

[1] The original complaint included apparently another sister by the name of Elena, Rec. on App., p. 2, but this is the only mention of Elena in the record. She appears not to have been summoned and no answer was filed in her behalf. No judgment was rendered against Elena; she did not execute the power of attorney in question, and for

all purposes, she is not a party hereto.

[2] Rec. on App., pp. 14-15, emphasis supplied.

[3] Rec. on App., pp. 19-20, emphasis supplied.

[4] Exh. A.

[5] Exh. R.

[6] Rec. on Appeal, pp. 156-157.

[7] 49 Phil. 574 (1926); 47 Phil. 594, 613 (1925).

[8] 105 Phil. 672, (April 30, 1959).

[9] Id., at 673-674, emphasis supplied.

[10] Appellee's Brief, p. 15.

[11] T.S.N., August 12, 1963, pp. 40-41.

[12] T.S.N., August 23, 1963, p. 55.

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