

## **RAMON RALLOS, ADMINISTRATOR OF THE ESTATE OF CONCEPCION RALLOS, PETITIONER, VS. FELIX GO CHAN AND SONS REALTY CORPORATION AND COURT OF APPEALS, RESPONDENTS.**

*G.R. No. L-24332. January 31, 1978*

Ponente: MUÑOZ PALMA, J.

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### **MUÑOZ PALMA, J.:**

This is a case of an attorney-in-fact, Simeon Rallos, who after the death of his principal, Concepcion Rallos, sold the latter's undivided share in a parcel of land pursuant to a special power of attorney which the principal had executed in his favor. The administrator of the estate of the deceased principal went to court to have the sale declared unenforceable and to recover the disposed share. The trial court granted the relief prayed for, but upon appeal, the Court of Appeals upheld the validity of the sale and dismissed the complaint.

Hence, this Petition for Review on certiorari.

The following facts are not disputed. Concepcion and Gerundia both surnamed Rallos were sisters and registered co-owners of a parcel of land known as Lot No. 5983 of the Cadastral Survey of Cebu covered by Transfer Certificate of Title No. 11118 of the Registry of Cebu. On April 21, 1954, the sisters executed a special power of attorney in favor of their brother, Simeon Rallos, authorizing him to sell for and in their behalf lot 5983. On March 3, 1955, Concepcion Rallos died. On September 12, 1955, Simeon Rallos sold the undivided shares of his sisters Concepcion and Gerundia in lot 5983 to Felix Go Chan & Sons Realty Corporation for the sum of P10,686.90. The deed of sale was registered in the Registry of Deeds of Cebu, TCT No. 11118 was cancelled, and a new Transfer Certificate of Title No. 12989 was issued in the name of the vendee.

On May 18, 1956 Ramon Rallos as administrator of the Intestate Estate of Concepcion Rallos filed a complaint docketed as Civil Case No. R-4530 of the Court of First Instance of Cebu, praying (1) that the sale of the undivided share of the deceased Concepcion Rallos in lot 5983 be declared unenforceable, and said share be reconveyed to her estate; (2) that the Certificate of Title issued in the name of Felix Go Chan & Sons Realty Corporation be cancelled and another title be issued in the names of the corporation and the "Intestate estate of Concepcion Rallos" in equal undivided shares; and (3) that plaintiff be indemnified by way of attorney's fees and payment of costs of suit. Named party defendants were Felix Go Chan & Sons Realty Corporation, Simeon Rallos, and the Register of Deeds of Cebu, but subsequently, the latter was dropped from the complaint. The complaint was amended twice; defendant Corporation's Answer contained a cross-claim against its co-defendant, Simeon Rallos, while the latter filed a third-party complaint against his sister, Gerundia Rallos. While the case was pending in the trial court, both Simeon and his sister Gerundia died and they were substituted by the respective administrators of their estates.

After trial, the court a quo rendered judgment with the following dispositive portion:

"A. On Plaintiff's Complaint -

(1) Declaring the deed of sale, Exh. 'C', null and void insofar as the one-half pro-indiviso share of Concepcion Rallos in the property in question, - Lot 5983 of the Cadastral Survey of Cebu - is concerned;

(2) Ordering the Register of Deeds of Cebu City to cancel Transfer Certificate of Title No. 12989 covering Lot 5983 and to issue in lieu thereof another in the names of FELIX GO CHAN & SONS REALTY CORPORATION and the Estate of Concepcion Rallos in the proportion of one-half (1/2) share each pro-indiviso;

(3) Ordering Felix Go Chan & Sons Realty Corporation to deliver the possession of an undivided one-half (1/2) share of Lot 5983 to the herein plaintiff;

(4) Sentencing the defendant Juan T. Borromeo, administrator of the Estate of Simeon Rallos, to pay to plaintiff in concept of reasonable attorney's fees the sum of P1,000.00; and

(5) Ordering both defendants to pay the costs jointly and severally.

"B. On GO CHAN'S Cross-Claim:

(1) Sentencing the co-defendant Juan T. Borromeo, administrator of the Estate of Simeon Rallos, to pay to defendant Felix Go Chan & Sons Realty Corporation the sum of P5,343.45, representing the price of one-half (1/2) share of lot 5983;

(2) Ordering co-defendant Juan T. Borromeo, administrator of the Estate of Simeon Rallos, to pay in concept of reasonable attorney's fees to Felix Go Chan & Sons Realty Corporation the sum of P500.00.

"C. On Third-Party Complaint of defendant Juan T. Borromeo, administrator of Estate of Simeon Rallos, against Josefina Rallos, special administratrix of the Estate of Gerundia Rallos:

(1) Dismissing the third-party complaint without prejudice to filing either a complaint against the regular administrator of the Estate of Gerundia Rallos or a claim in the Intestate-Estate of Gerundia Rallos, covering the same subject-matter of the third-party complaint, at bar." (pp. 98-100, Record on Appeal)

Felix Go Chan & Sons Realty Corporation appealed in due time to the Court of Appeals from the foregoing judgment insofar as it set aside the sale of the one-half (1/2) share of Concepcion Rallos. The appellate tribunal, as adverted to earlier, resolved the appeal on November 20, 1964 in favor of the appellant corporation sustaining the sale in question.[1] The appellee-administrator, Ramon Rallos, moved for a reconsideration of the decision but

the same was denied in a resolution of March 4, 1965.[2]

What is the legal effect of an act performed by an agent after the death of his principal? Applied more particularly to the instant case, We have the query: is the sale of the undivided share of Concepcion Rallos in lot 5983 valid although it was executed by the agent after the death of his principal? What is the law in this jurisdiction as to the effect of the death of the principal on the authority of the agent to act for and in behalf of the latter? Is the fact of knowledge of the death of the principal a material factor in determining the legal effect of an act performed after such death?

Before proceeding to the issues, We shall briefly restate certain principles of law relevant to the matter under consideration.

1. 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.[3] 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.[4] Article 1403 (1) of the same Code also provides:

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

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

Out of the above given principles, sprung the creation and acceptance of the relationship of agency whereby one party, called the principal (mandante), authorizes another, called the agent (mandatario), to act for and in his behalf in transactions with third persons. The essential elements of agency are: (1) there is consent, express or implied, of the parties to establish the relationship; (2) the object is the execution of a juridical act in relation to a third person; (3) the agent acts as a representative and not for himself; and (4) the agent acts within the scope of his authority.[5]

Agency is basically personal, representative, and derivative in nature. The authority of the agent to act emanates from the powers granted to him by his principal; his act is the act of the principal if done within the scope of the authority. Qui facit per alium facit per se. "He who acts through another acts himself." [6]

2. There are various ways of extinguishing agency,[7] but here We are concerned only with one cause-death of the principal. Paragraph 3 of Art. 1919 of the Civil Code which was taken from Art. 1709 of the Spanish Civil Code provides:

"ART. 1919. Agency is extinguished:

"xx xx xx

"3. By the death, civil interdiction, insanity or insolvency of the principal or of the agent; x x x." (Underline supplied)

By reason of the very nature of the relationship between principal and agent, agency is extinguished by the death of the principal or of the agent. This is the law in this jurisdiction.[8]

Manresa commenting on Art. 1709 of the Spanish Civil Code explains that the rationale for the law is found in the juridical basis of agency which is representation. There being an integration of the personality of the principal into that of the agent it is not possible for the representation to continue to exist once the death of either is established. Pothier agrees with Manresa that by reason of the nature of agency, death is a necessary cause for its extinction. Laurent says that the juridical tie between the principal and the agent is severed ipso jure upon the death of either without necessity for the heirs of the principal to notify the agent of the fact of death of the former.[9]

The same rule prevails at common law - the death of the principal effects instantaneous and absolute revocation of the authority of the agent unless the power be coupled with an interest.[10] This is the prevalent rule in American Jurisprudence where it is well-settled that a power without an interest conferred upon an agent is dissolved by the principal's death, and any attempted execution of the power afterwards is not binding on the heirs or representatives of the deceased.[11]

3. Is the general rule provided for in Article 1919 that the death of the principal or of the agent extinguishes the agency, subject to any exception, and if so, is the instant, case within that exception? That is the determinative point in issue in this litigation. It is the contention of respondent corporation which was sustained by respondent court that notwithstanding the death of the principal, Concepcion Rallos, the act of the attorney-in-fact, Simeon Rallos, in selling the former's share in the property is valid and enforceable inasmuch as the corporation acted in good faith in buying the property in question.

Articles 1930 and 1931 of the Civil Code provide the exceptions to the general rule aforementioned.

ART. 1930. The agency shall remain in full force and effect even after the death of the principal, if it has been constituted in the common interest of the latter and of the agent, or in the interest of a third person who has accepted the stipulation in his favor.

ART. 1931. Anything done by the agent, without knowledge of the death of the principal or of any other cause which extinguishes the agency, is valid and shall be fully effective with respect to third persons who may have contracted with him in good faith.

Article 1930 is not involved because admittedly the special power of attorney executed in favor of Simeon Rallos was not coupled with an interest.

Article 1931 is the applicable law. Under this provision, an act done by the agent after the death of his principal is valid and effective only under two conditions, viz: (1) that the agent acted without knowledge of the death of the principal, and (2) that the third person who contracted with the agent himself acted in good faith. Good faith here means that the third person was not aware of the death of the principal at the time he contracted with said agent. These two requisites must concur: the absence of one will render the act of the agent invalid and unenforceable.

In the instant case, it cannot be questioned that the agent, Simeon Rallos, knew of the death of his principal at the time he sold the latter's share in Lot No. 5983 to respondent corporation. The knowledge of the death is clearly to be inferred from the pleadings filed by Simeon Rallos before the trial court.[12] That Simeon Rallos knew of the death of his sister Concepcion is also a finding of fact of the court a quo[13] and of respondent appellate court when the latter stated that Simeon Rallos "must have known of the death of his sister, and yet he proceeded with

the sale of the lot in the name of both his sisters Concepcion and Gerundia Rallos without informing appellant (the realty corporation) of the death of the former." [14]

On the basis of the established knowledge of Simeon Rallos concerning the death of his principal, Concepcion Rallos, Article 1931 of the Civil Code is inapplicable. The law expressly requires for its application lack of knowledge on the part of the agent of the death of his principal; it is not enough that the third person acted in good faith. Thus in *Buason & Reyes v. Panuyas*, the Court applying Article 1738 of the old Civil Code now Art. 1931 of the new Civil Code sustained the validity of a sale made after the death of the principal because it was not shown that the agent knew of his principal's demise. [15] To the same effect is the case of *Herrera, et al. v. Luy Kim Guan, et al.*, 1961, where in the words of Justice Jesus Barrera the Court stated:

"x x x even granting arguendo that Luis-Herrera did die in 1936, plaintiffs presented no proof and there is no indication in the record, that the agent Luy Kim Guan was aware of the death of his principal at the time he sold the property. The death of the principal does not render the act of an agent unenforceable, where the latter had no knowledge of such extinguishment of the agency." (1 SCRA 406, 412)

4. In sustaining the validity of the sale to respondent corporation, the Court of Appeals reasoned out that there is no provision in the Code which provides that whatever is done by an agent having knowledge of the death of his principal is void even with respect to third persons who may have contracted with him in good faith and without knowledge of the death of the principal. [16]

We cannot see the merits of the foregoing argument as it ignores the existence of the general rule enunciated in Article 1919 that the death of the principal extinguishes the agency. That being the general rule it follows a fortiori that any act of an agent after the death of his principal is void ab initio unless the same falls under the exceptions provided for in the aforementioned Articles 1930 and 1931. Article 1931, being an exception to the general rule, is to be strictly construed; it is not to be given an interpretation or application beyond the clear import of its terms for otherwise the courts will be involved in a process of legislation outside of their judicial function.

5. Another argument advanced by respondent court is that the vendee acting in good faith relied on the power of attorney which was duly registered on the original certificate of title recorded in the Register of Deeds of the Province of Cebu, that no notice of the death was ever annotated on said certificate of title by the heirs of the principal and accordingly they must suffer the consequences of such omission. [17]

To support such argument reference is made to a portion in Manresa's Commentaries which We quote:

"If the agency has been granted for the purpose of contracting with certain persons, the revocation must be made known to them. But if the agency is general in nature, without reference to particular persons with whom the agent is to contract, it is sufficient that the principal exercise due diligence to make the revocation of the agency publicly known.

"In case of a general power which does not specify the persons to whom representation should be made, it is the general opinion that all acts executed with third persons who contracted in good faith, without knowledge of the revocation, are valid. In such case, the principal may exercise his right against the agent, who, knowing of the revocation, continued to assume a personality which he no longer had." (Manresa, Vol. 11, pp. 561 and 575; pp. 15-16, rollo)

The above discourse, however, treats of revocation by an act of the principal as a mode of terminating an agency which is to be distinguished from revocation by operation of law such as death of the principal which obtains in this case. On page six of this Opinion We stressed that by reason of the very nature of the relationship between principal and agent, agency is extinguished ipso jure upon the death of either principal or agent. Although a revocation of a power of attorney to be effective must be communicated to the parties concerned,[18] yet a revocation by operation of law, such as by death of the principal is, as a rule, instantaneously effective inasmuch as "by legal fiction the agent's exercise of authority is regarded as an execution of the principal's continuing will." [19] With death, the principal's will ceases or is terminated; the source of authority is extinguished.

The Civil Code does not impose a duty on the heirs to notify the agent of the death of the principal. What the Code provides in Article 1932 is that, if the agent dies, his heirs must notify the principal thereof, and in the meantime adopt such measures as the circumstances may demand in the interest of the latter. Hence, the fact that no notice of the death of the principal was registered on the certificate of title of the property in the Office of the Register of Deeds, is not fatal to the cause of the estate of the principal.

6. Holding that the good faith of a third person in dealing with an agent affords the former sufficient protection, respondent court drew a "parallel" between the instant case and that of an innocent purchaser for value of a registered land, stating that if a person purchases a registered land from one who acquired it in bad faith - even to the extent of forging or falsifying the deed of sale in his favor - the registered owner has no recourse against such innocent purchaser for value but only against the forger.[20]

To support the correctness of this "parallelism", respondent corporation, in its brief, cites the case of *Blondeau, et al. v. Nano and Vallejo*, 61 Phil. 625. We quote from the brief:

"In the case of *Angela Blondeau et al. v. Agustin Nano et al.*, 61 Phil. 630, one Vallejo was a co-owner of lands with Agustin Nano. The latter had a power of attorney supposedly executed by Vallejo in his favor. Vallejo delivered to Nano his land titles. The power was registered in the Office of the Register of Deeds. When the lawyer husband of Angela Blondeau went to that Office, he found all in order including the power of attorney. But Vallejo denied having executed the power. The lower court sustained Vallejo and the plaintiff Blondeau appealed. Reversing the decision of the court a quo, the Supreme Court, quoting the ruling in the case of *Eliason v. Wilborn*, 261 U.S. 457, held:

'But there is a narrower ground on which the defenses of the defendant-appellee must be overruled. Agustin Nano had possession of Jose Vallejo's title papers. Without those title papers handed over to Nano with the acquiescence of Vallejo, a fraud could not have been perpetuated. When Fernando de la Cantera, a member of the Philippine Bar and the husband of Angela Blondeau, the principal plaintiff, searched the registration record, he found them in due form including the power of attorney of Vallejo in favor of Nano. If this had not been so and if thereafter the proper notation of the encumbrance could not have been made, Angela Blondeau would not have lent P12,000.00 to the defendant Vallejo.' An executed transfer of registered lands placed by the registered owner thereof in the hands of another operates as a representation to a third party that the holder of the transfer is authorized to deal with the land.

'As between two innocent persons, one of whom must suffer the consequence of a breach of trust, the one who made it possible by his act of confidence bear the loss.' " (pp. 19-21)

The Blondeau decision, however, is not on all fours with the case before Us because here We are confronted with one who admittedly was an agent of his sister and who sold the property of the latter after her death with full knowledge of such death. The situation is expressly covered by a provision of law on agency the terms of which are clear and unmistakable leaving no room for an interpretation contrary to its tenor, in the same manner that the ruling in Blondeau and the cases cited therein found a basis in Section 55 of the Land Registration Law which in part provides:

“xxx xxx xxx

"The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the register of deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him in favor of every purchaser for value and in good faith: Provided, however, That in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title. xx xx xx "

(Act No. 496 as amended)

7. One last point raised by respondent corporation in support of the appealed decision is an 1842 rulings of the Supreme Court of Pennsylvania in *Cassiday v. McKenzie* wherein payments made to an agent after the death of the principal were held to be "good", "the parties being ignorant of the death". Let us take note that the Opinion of Justice Rogers was premised on the statement that the parties were ignorant of the death of the principal. We quote from that decision the following:

"x x x Here the precise point is, whether a payment to an agent when the parties are ignorant of the death is a good payment. In addition to the case in *Campbell* before cited, the same judge Lord Ellenborough, has decided in 5 Esp. 117, the general question that a payment after the death of principal is not good. Thus, a payment of sailor's wages to a person having a power of attorney to receive them, has been held void when the principal was dead at the time of the payment. If, by this case, it is meant merely to decide the general proposition that by operation of law the death of the principal is a revocation of the powers of the attorney, no objection can be taken to it. But if it is intended to say that this principle applies where there was no notice of death, or opportunity of notice, I must be permitted to dissent from it.

"x x x That a payment may be good today, or bad tomorrow, from accidental circumstance of the death of the principal which he did not know, and which by no possibility could he know? It would be unjust to the agent and unjust to the debtor. In the civil law, the acts of the agent, done bona fide in ignorance of the death of his principal, are held valid and binding upon the heirs of the latter. The same rule holds in the Scottish law, and I cannot believe the common law is so unreasonable. . . ." (39 Am. Dec. 76, 80, 81; italics supplied)

To avoid any wrong impression which the Opinion in *Cassiday v. McKenzie* may evoke, mention may be made that the above represents the minority view in American jurisprudence. Thus in *Clayton v. Merrett*, the Court said:

" "There are several cases which seem to hold that although, as a general principle, death revokes an agency

and renders null every act of the agent thereafter performed, yet that where a payment has been made in ignorance of the death, such payment will be good. The leading case so holding is that of *Cassiday v. McKenzie*, 4 Watts & S. (Pa.) 282, 39 AmD 76, where, in an elaborate opinion, this view is broadly announced. It is referred to, and seems to have been followed, in the case of *Dick v. Page*, 17 Mo. 234, 57 AmD 267; but in this latter case it appeared that the estate of the deceased principal had received the benefit of the money paid, and therefore the representative of the estate might well have been held to be estopped from suing for it again. . . . These cases, in so far, at least, as they announce the doctrine under discussion, are exceptional. The Pennsylvania Case, *supra* (*Cassiday v. McKenzie*, 4 Watts & S. 282, 39 AmD 76), is believed to stand almost, if not quite, alone in announcing the principle in its broadest scope.' " (52 Misc. 353, 357, cited in 2 C.J. 549)

So also in *Travers v. Crane*, speaking of *Cassiday v. McKenzie*, and pointing out that the opinion, except so far as it related to the particular facts, was a mere dictum, Baldwin, J. said:

" 'The opinion, therefore, of the learned Judge may be regarded more as an extrajudicial indication of his views on the general subject, than as the adjudication of the Court upon the point in question. But according all proper weight to this opinion, as the judgment of a Court of great respectability, it stands alone among common law authorities, and is opposed by an array too formidable to permit us to follow it.' " (15 Cal. 12, 17, cited in 2 C.J. 549)

Whatever conflict of legal opinion was generated by *Cassiday v. McKenzie* in American jurisprudence, no such conflict exists in our own for the simple reason that our statute, the Civil Code, expressly provides for two exceptions to the general rule that death of the principal revokes ipso jure the agency, to wit: (1) that the agency is coupled with an interest (Art. 1930), and (2) that the act of the agent was executed without knowledge of the death of the principal and the third person who contracted with the agent acted also in good faith (Art. 1931). Exception No. 2 is the doctrine followed in *Cassiday*, and again We stress the indispensable requirement - that the agent acted without knowledge or notice of the death of the principal. In the case before Us the agent Ramon Rallos executed the sale notwithstanding notice of the death of his principal. Accordingly, the agent's act is unenforceable against the estate of his principal.

IN VIEW OF ALL THE FOREGOING, We set aside the decision of respondent appellate court, and We affirm en toto the judgment rendered by then Hon. Amador E. Gomez of the Court of First Instance of Cebu, quoted in pages 2 and 3 of this Opinion, with costs against respondent realty corporation at all instances.

### **SO ORDERED.**

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

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[1] p. 40, rollo

[2] p. 42, *ibid.*

[3] Art. 1317, Civil Code of the Philippines

[4] *ibid.*

[5] Art. 1868, Civil Code. By the contract of agency a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.

Art. 1881, Civil Code. The agent must act within the scope of his authority. He may do such acts as may be conducive to the accomplishment of the purpose of the agency.

11 Manresa 422-423; 4 Sanchez Roman 478, 2nd Ed.; 26 Scaevola, 243, 262; Tolentino, Comments, Civil Code of the Philippines, p. 340 Vol. 5, 1959 Ed.

See also *Columbia University Club v. Higgins*, D.C.N.Y., 23 F. Supp. 572, 574; *Farmers Nat. Grain Corp. v. Young*, 109 P. 2d 180, 185.

[6] 74 C.J.S. 4; *Valentine Oil Co. v. Powers*, 59 N.W. 2d 160, 163, 157 Neb. 87; *Purnell v. City of Florence*, 175 So. 417, 27 Ala. App. 516; *Stroman Motor Co. v. Brown*, 243 P. 133, 126 Ok. 36

[7] See Art. 1919 of the Civil Code

[8] *Hermosa v. Longara*, 1953, 93 Phil. 977, 983; *Del Rosario, et al. v. Abad, et al.*, 1958, 104 Phil. 648, 652

[9] 11 Manresa 572-573; Tolentino, *supra*, 369-370

[10] 2 Kent Comm. 641, cited in *Williston on Contracts*, 3rd Ed., Vol. 2, p. 288

[11] See Notes on Acts of agent after principal's death, 39 Am. Dec. 81, 83, citing *Ewell's Evans on Agency*, 116; *Dunlap's Paley on Agency*, 186; *Story on Agency*, sec. 488; *Harper v. Little*, 11 Am. Dec. 25; *Staples v. Bradbury*, 23 Id. 494; *Gale v. Tappan*, 37 Id. 194; *Hunt v. Rousmanier*, 2 Mason, 244, S.C. 8 Wheat, 174; *Boone's executor v. Clarke*, 3 Cranch C.C. 389; *Bank of Washington v. Peirson*, 2 Wash. C. C. 685; *Scruggs v. Driver's Executor*, 31 Ala. 274; *McGriff v. Porter*, 5 Fla. 373; *Lincoln v. Emerson*, 108 Mass. 87; *Wilson v. Edmonds*, 24 N.H. 517; *Easton v. Ellis*, 1 Handy (Ohio), 70; *McDonald v. Black's Administrators*, 20 Ohio, 185; *Michigan Ins. Co. v. Leavenworth*, 30 Vt. 11; *Huston v. Cantril*, 11 Leigh, 136; *Campanari v. Woodburn*, 15 Com. B. 400

See also *Williston on Contracts*, 3rd Ed., Vol. 2, p. 289

[12] see p. 15, 30-31, 64, 68-69, Record on Appeal

[13] pp. 71-72, *ibid.*

[14] p. 7 of the Decision at page 14, rollo

[15] 105 Phil. 795, 798

[16] p. 6 of Decision, at page 13, rollo.

[17] pp. 6-7 of Decision at pp. 13-14, *ibid.*

[18] See Articles 1921 & 1922 of the Civil Code

[19] 2 C.J.S. 1174 citing American jurisprudence in different States from Alabama to Washington; emphasis supplied.

[20] p. 8, decision at page 15, rollo

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