

## **DOMINGO LAO AND ERNESTO T. LAO, PETITIONERS, VS. ESTRELLA VILLONES-LAO, SPS. MANUEL AND ANGELITA MALAN, SPS. CARLOS AND SOCORRO VILLENA, RESPONDENTS.**

*G.R. No. 126777. April 29, 1999*

Ponente: PARDO, J.

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### **PARDO, J.:**

The case is a petition for review on certiorari of the decision of the Court of Appeals,[1] and its Resolution[2] reversing the decision of the trial court, and finding herein respondents Spouses Villena's as mortgagees in good faith making their title to the property[3], subject of this petition valid.

The facts of the case are as follows:

The spouses Domingo and Estrella Lao, during their marriage, acquired a real estate property located at 6 Arayat St., Cubao, Quezon City, covered by TCT No.T-268732 of the Register of Deeds of Quezon City. It has a total land area of 808 sq.m., and an estimated value of P1,500,000.00, including the improvements. In 1974, the spouses separated. The property was at that time still mortgaged with MetroBank and Trust Company.

However, after full payment of the loan obtained by Domingo Lao from MetroBank, Estrella Lao was able to secure release of the title of the property and had the mortgage therein cancelled unknown to Domingo.

Domingo Lao was leasing the subject property to Filmart at a monthly rental of P7,000.00. Sometime in August 1982, Domingo Lao learned that the title had been cancelled and a new one issued in the name of the respondents spouses Carlos and Socorro Patenia-Villena. Domingo Lao came to know this when Carlos Villena, Jr. visited the premises and informed the tenants that he (Villena) was the new owner of the property. Domingo Lao then went to the Office of the Register of Deeds of Quezon City and inquired into the record of the property. True enough, he was informed that his title has been cancelled and a new one issued in favor of the Villena spouses.

Estrella, the estranged wife of Domingo Lao, was in dire financial straits and was seeking a financial accommodation. The spouses Manuel and Angelita Malana, whom Estrella met at one time, came to her house and represented themselves as agents of Carlos Villena. The Malanas introduced Estrella Lao to Villena on May 22, 1980.

Upon meeting Estrella Lao, Carlos Villena Jr. indicated his willingness to grant her a loan, but noted that the title was in the name of the spouses Estrella and Domingo and their son Ernesto Lao. Estrella Lao must obtain a Special Power of Attorney from Domingo and Ernesto Lao. Estrella Lao admitted this would be difficult as she and her husband had been estranged for many years, and were not even on speaking terms. However, the Malana spouses assured her they would help her secure the Special Power of Attorney.

After three days Estrella Lao returned to the Villenas together with the Malanas with the Special Power of Attorney (SPA) signed by Domingo and Ernesto Lao, and duly notarized. The spouses Villena relied on the said notarized SPA, and found nothing suspicious that it was so easily obtained by Estrella Lao only after three days,

when they were in fact aware that Estrella and Domingo Lao were estranged from each other. Villena therefore entered into a contract of mortgage with Estrella Lao with the 808 sq.m. land as collateral.

After Estrella Lao failed to make payments on the loan, Carlos Villena Jr. effected an extra-judicial foreclosure and sale at public auction of the property on July 27, 1981[4] and the Register of Deeds issued a new Certificate of Title in the name of the spouses Carlos and Socorro Villena.

Domingo Lao, after being appraised of what happened to the property, filed on April 27, 1983, with the Regional Trial Court Quezon City, Branch 76, a complaint for the annulment of the special power of attorney, mortgage, extra-judicial foreclosure, and the cancellation TCT No. 290029 and reconveyance of title.[5]

On September 28, 1992, the Regional trial Court, Branch 76, Quezon City rendered decision the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, the court hereby declares null and void the following:

- The special power of attorney;
- Deed of real estate mortgage;
- The foreclosure proceedings;
- Transfer Certificate of Title No. 290029 in the name of the Villena spouses, and orders the Register of Deeds of Quezon City to cancel the said title and issue a new one in favor of Domingo Lao, Ernesto Lao, and Estrella Villones-Lao with the same participation as appearing in TCT No. T-268732 of the Registry of Deeds of Quezon City, namely: Estrella Villones-Lao, 50%; Domingo Lao, 30%; and Ernesto Lao, 20%."

"The Court further orders the defendants Estrella Villones-Lao, spouses Manuel and Angelita Malana and the spouses Carlos and Socorro Patenia Villena to pay the plaintiff, jointly and severally, the sum of P15,000.00 as moral damages, P10,000.00 as attorney's fees, P10,000.00 as reasonable litigation expenses and to pay the costs. Defendant Villenas are ordered to pay the sum of P840,000.00 as unearned rentals computed at P7,000.00 a month from September 1982 to September 1992 plus interest at 12% per annum until fully paid.

"Considering that a special characteristic of a real estate mortgage is its indivisibility (Art 2089 of the Civil Code) even through the debt secured may be divided among the debtors or creditors or other successors in interest, the deed of real estate mortgage executed by Estrella Villones-Lao with respect to her undivided not share in property. The nullity notwithstanding, Villena can recover the indebtedness of Estrella Villones-Lao through an ordinary suit.[6]

A motion to modify the judgment was filed by petitioners Domingo and Ernesto Lao, on October 12, 1992[7], which was granted by the lower court and a modified judgement was issued on February 11, 1993.[8] The modified judgment further orders the spouses Carlos and Socorro Villena and their representatives and assigns to immediately vacate the premises located at Cubao, Quezon City and that a new Certificate of Title be issued in favor of spouses Domingo and Estrella Lao with the 20% share of Ernesto Lao annotated at the back..[9]

On February 23, 1993 respondent spouses Villena filed their notice of appeal. On February 19, 1993 the spouses Malana filed their notice of appeal.

After due proceedings, on July 11, 1996, the Court of Appeals rendered decision on July 11, 1996, reversing the lower court's decision, the dispositive portion of which reads as follows:

WHEREFORE, the trial court's decision is REVERSED and SET ASIDE, and in lieu thereof, a new decision is hereby rendered declaring the Deed of Real Estate Mortgage dated June 17, 1980 and the foreclosure sale valid, upholding the validity of the villenas' title to TCT No. 290029, and ordering that the property be

transferred in Villenas' name.[10]

On August 14, 1996 petitioner filed a motion for reconsideration. However the Court of Appeals denied the motion.

Hence, this petition.

In this appeal, petitioner imputes the following errors to the Court of Appeals:

- The respondents were mortgagees in good faith, not being privy to the forgery of the special power of attorney; and
- Petitioners were negligent in entrusting the original owners certificate of title to respondent Estrella Villones-Lao.

The petitioners argue that the Villenas' can not be considered as mortgagees in good faith since at the first instance they knew that Estrella Lao and her husband Domingo Lao had been estranged from each other. When Estrella Lao together with the Malana spouses came to him with the Special Power of Attorney (SPA) after only three days, this should have put Villena in doubt as to the authenticity of the SPA, after all the rule of commerce is caveat emptor.[11]

Petitioners further stress the fact that a reasonably prudent man would have been surprised at the very least when Estrella Lao and the Malanas showed up three days later with a special power of attorney signed by the co-owners Domingo and Ernesto Lao. While Estrella Lao was a co-owner of the property, she was nevertheless a stranger with regard to the sale or disposition of the shares of the other co-owners. Yet, respondent Villena never even called or inform the co-owners of the mortgage, even if he knew their addresses. He went to the subject property once and made no other efforts to contact or confirm the identities of Domingo and Ernesto Lao.

According to petitioners, the Court of Appeals disregarded the requirement of ordinary prudence and diligence in the case simply because of the notarized special power of attorney. And as such the court binds petitioners to an unauthorized transaction entered into by his wife with regard to conjugal properties.

The ruling of the Court of Appeals that petitioners were given by the Villenas several opportunities to redeem the property finds no support in the factual records of the case. According to the petitioners they only met the Villenas after title was already consolidated in the name of the Villenas. Further, it would be utterly absurd for petitioners to ratify the illegal and unauthorized acts of Estrella Lao by redeeming the property foreclosed on the strength of their forged signatures.

The petitioners argue that the findings of the Court of Appeals on their negligence in giving Estrella Lao a copy of the title of the property is without basis. As a registered co-owner, Estrella Lao was entitled to the possession of an owner's copy. In fact under the provisions of P.D. 1529, a separate duplicate may be issued to each co-owner. Hence, there was no responsibility upon anyone to deny Estrella Lao possession of said title.

Petitioners raise in issue the fact that during the proceedings at the lower court it was proved that the signatures of the petitioners, Domingo and Ernesto Lao were forged. Emmanuel de Guzman, of the National Bureau of Investigation testified that upon examination and verification of the questioned signatures of Domingo and Ernesto Lao, by comparing the sample signatures and the signatures appearing on the special power of attorney, he concluded that the signatures do not match. Therefore, the signatures of Domingo and Ernesto Lao were forgeries.[12]

Herein respondent Villena spouses, Malana spouses and Estrella Lao filed their separate comment to the petition.

Respondent spouses Villena were steadfast in their claim that since they were not privy to the forgery of the special power of attorney they can not be part of the fraud imputed by the petitioners.

According to the spouses Villena, they have exhibited the required diligence to ascertain the veracity of the representation made by Estrella by employing several precautionary measures.

They demanded for and was given the original of the owner's copy of TCT No. 268732, the location plan and Real Estate Tax Declaration of the mortgage property. They conducted an ocular inspection of the subject property and inquired who owns the property. They went to the Quezon City Register of Deeds to verify the authenticity of TCT No. 266732 and found the same to be genuine and free from liens and encumbrances. Carlos Villena even asked Estrella Lao why she preferred mortgaging the property to him rather than to Metrobank. They inquired as to the whereabouts of the other co-owners.[13]

To evidence their good faith and intention to help Estrella Lao, the foreclosure was done only after six months from the last demand to give Estrella Lao an opportunity to pay her debt. The foreclosure was published, and after consolidation of the title to their name, the Villenas reminded Estrella Lao of her right to repurchase the property. The Villenas even offered petitioners the option to sell the property, and whatever be the proceeds from the sale, be given as payment for the debt and interest of Estrellas' loan and whatever remains be given to the co-owners Domingo and Ernesto Lao.

Contrary to the claims of petitioners, the spouses Villena alleged that they should not be faulted for relying on the notarized document. Precisely, a notarized document is executed to lend truth to the statements contained therein and to the authenticity of the signatures. Moreover a notarized document enjoys the presumption of regularity which can be overturned only by clear and convincing evidence. Armed with this presumption, a prudent man exercising due diligence need only require the presentation of a duly notarized special power of attorney. He is not expected to enlist the opinions of experts and summon all signatories before he can rely on the notarized document.

Respondents claim that the petitioners, Domingo and Ernesto Lao should file a case for damages against the perpetrators of the fraud, and not against them. Further the present action for reconveyance is a collateral attack on the Villenas title, which is prohibited under Sec. 48 of Presidential Decree 1529 of the property registration decree.

Estrella Lao on the other hand filed her separate comment to the petition. She alleges that she never defrauded nor deceived her estranged husband, Domingo Lao. She vehemently denies any intervention in the preparation and execution of the disputed special power of attorney except by affixing her signature on the blank form presented to her by the other private respondents, spouses Malana.

According to Estrella it was the Malanas' who made her sign a blank special power of attorney. She only affixed her signature at the portion of the blank document, which states, "with my marital consent," she never read the document and did not know what it contained.[14]

After three months from obtaining the loan from the Villenas she went to see them about the payment of the loan and the redemption of the property by her friend Mr. Go. The Villenas refused and told her that only she and her husband can redeem the property. After this encounter whenever Estrella Lao went to see the Villenas or call them over the phone she is always told that the couple were out and that they refused to see or talk to her.[15] In fact Estrella Lao filed a suit against the respondent Villena spouses for violation of the Usury law and damages suffered by Estrella Lao when the Villenas cancelled the lease contract of her lessee Mr. Ranola during the pendency of the mortgage.

Further, according to Estrella Lao, the Malanas were agents of the spouses Villena. This was also the conclusion of the trial court. In fact in the decision of the trial court there is a mention that the Villenas were aware of the forgery. They were not simply witnesses to the document but were aware of how the Malanas were able to obtain the special power of attorney.

According to Estrella Lao the respondent spouses Villena took advantage of her urgent need for money and took the opportunity to get the property worth P1.5 M for only P167,000.00, the amount that was actually given to her as loan.

The spouses Manuel and Angelita Mallana on the other hand claims that the only participation they had in the transaction was to introduce respondent Estrella Lao to respondent Carlos Villena in connection with her desire to secure a loan from the latter. They acted as witnesses to the real estate mortgage executed between spouses Carlos and Socorro Villena and Estrella Villones-Lao. The undisputed fact remains that it was Estrella Lao who secured the loan from the Villenas. She secured the loan by means of a forged special power of attorney from her husband Domingo Lao and her son Ernesto Lao. The case filed by Estrella Lao against spouses Mannuel and Angelita Malana, Carlos Villena, and Atty. Rodolfo G. Palatao (notary public who notarized the special power of attorney, now Associate Justice, Sandiganbayan) was dismissed for lack of merit.

We find the petition impressed with merit.

While this Court has held in several cases that "a notarized instrument is admissible in evidence without further proof of its due execution and is conclusive as to the truthfulness of its contents, this rule is nonetheless not absolute but may be rebutted by clear and convincing evidence to the contrary." [16] Such evidence, as the Court sees it, has been sufficiently established in this case.

The respondents do not deny the sequence of events established on record that:

- Estrella Lao was in extreme need of money and was looking in the neighborhood of Nepa Q Mart for a quick loan;
- It was the spouses Malana who went to her house to inquire if she was still interested in a loan. In fact , they had with them the folder given by Estrella Lao to one Cora, containing important documents pertaining to the property in question;
- The Malanas informed her they knew of a financier (referring to Mr. Villena) who could provide her with the loan, clearly implying that they had previous dealings with Mr. Villena. This is borne out by the fact that prior to the actual meeting of Estrella Lao and Mr. Villena, the Malanas already went to see Mr. Villena about the prospective transaction. Villena admitted that he knew the Malanas and that the Malanas approached him to be a lender; [17]
- The Malanas were not agents of Estrella Lao. They represented themselves to be official agents of Mr. Villena; [18] Mr. Villena upon introduction to Estrella Kao learned important facts like: (a) the separation between her and her husband Domingo Lao; [19] (b) the property was in the name of the spouses Lao and Ernesto Lao, Domingo's son by his first marriage; (c) that they were residing in Metro Manila;
- Villena informed Estrella Lao of the necessity of a power of attorney; [20] to which she answered that it may not be possible for her to get one as she and her husband were not on speaking terms;
- The Malanas assured her that they would do it for her;
- Their participation in the transaction extended far beyond being mere witnesses;

- Villena was aware of this and was fully forewarned of what was happening;
- The signature on the special power of attorney were "poor imitations" of the real signatures of the petitioners, proof of an attempt to make them appear as genuine;
- Estrella Lao could not be expected to be involved in the mechanics of executing the forged power of attorney. However, she could have furnished the other respondents with sample signatures of petitioners and the Malanas, causing the execution of the documents in her possession;
- It was proved that the signatures were forgeries[21]

The events show a pattern that leads this Court to conclude that the spouses Villena and Malana were business partners in credit financing. The Villenas were the financier while the Malanas served as their brokers or agents, who look for clients, in this case, Estrella Lao.

We agree with the trial court that "Villenas feigned innocence of the flawed character of the power of attorney is exposed not only by the above circumstances, but bolstered even by the fact that as a legitimate businessman he is expected to be well-informed of matters dealing with estranged wife involving a conjugal property. Why should a husband and his son execute a power of attorney in favor of the separated wife and stepmother when they were all residing in Metro Manila." [22]

It is therefore without doubt that the special power of attorney is a forgery. It can not be a basis of a valid mortgage contract, its subsequent foreclosure and the consolidation of title in favor of the spouses Villena.

A holder in bad faith of a certificate of title is not entitled to the protection of the law, for the law can not be used as a shield for fraud.[23]

IN VIEW OF THE FOREGOING, the decision of the Court of Appeals in CA G. R. CV No. 42174 is hereby REVERSED, and that of the trial court is REVIVED and AFFIRMED.

No costs.

**SO ORDERED.**

Davide, Jr., C.J., Melo, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Court of Appeals Rollo, CA-G.R. CV No. 42174, Decision prom. July 11, 1996, penned by Justice Maximiano G. Asuncion, concurred in by Associate Justices Salome A. Montoya and Godardo A. Jacinto, pp. 379-387.

[2] Ibid., Resolution, October 7, 1996, p. 118.

[3] Original Record, Decision, C. A.-G. R. No. 42174, at p. 386.

[4] Original record,, Complaint, Civil Case No. Q-38023, p.9.

[5] Ibid., pp. 6-12.

[6] Ibid., Decision, Civil Case No. Q-38023, pp. 357-358.

[7] Original Record (RTC), Motion to Modify Judgment, pp. 366-371.

[8] Ibid., Order, pp. 397-400.

[9] Ibid., p. 399.

[10] Court of Appeals Records, Decision, C.A. G.R. C.V. No. 42174, p. 386.

[11] Ibid., p.16.

[12] Original Record (RTC), Decision, p. 348.

[13] Ibid., Comment (by respondent Villenas'), p. 52.

[14] Ibid., Comment (Estrella Villones-Lao), pp. 72-73.

[15] Ibid., p. 74.

[16] Baranda vs. Baranda, 150 SCRA 59-75, 66-67; citing Antillon vs. Barcelona, 37 PHIL 148; and Mendezona vs. Phil. Sugar Estate Dev. Co., 41 PHIL 475; Embrado vs. Court of Appeals 233 SCRA 335-348, 343.

[17] TSN, July 12, 1990, pp. 19-20.

[18] Ibid., October 17, 1991, p. 24, November 4, 1991, pp. 8, 16, and 36.

[19] Ibid., November 4, 1991, p. 9.

[20] October 20, 1990, p. 3.

[21] Original Record (RTC), Decision, p. 348.

[22] Original Record (RTC), DECISION, p. 356.

[23] Ignacio vs. Chua Hong, 52 PHIL 940; Gustilo vs. Maravilla, 48 PHIL 442.

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