



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 March 2022** which reads as follows:*

“G.R. No. 248711 (Ricarcon Development Corporation v. Marilyn R. Soliman, Napoleon C. Soliman, Aw Peng Lam, and Hon. Elbert T. Quilala of the Register of Deeds for Quezon City). – This Petition for Review on *Certiorari*¹ seeks the reversal of the Decision² dated 10 December 2018 and Resolution³ dated 06 August 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 105977. The CA denied the appeal filed by Ricarcon Development Corporation (Ricarcon) and affirmed the Decisions dated 06 November 2014⁴ and 14 July 2015⁵ and Order⁶ dated 02 March 2015 of Branch 87, Regional Trial Court (RTC), Quezon City, in Civil Case No. Q-03-50686. The RTC dismissed Ricarcon’s action for annulment of real estate mortgage and damages against respondents.

Antecedents

Petitioner Ricarcon is a domestic corporation duly organized under the laws of the Philippines. On 29 September 2003, it filed an action for Annulment of Real Estate Mortgage and Cancellation of Entry No. 6205 in Transfer Certificate of Title (TCT) No. RT-101161 (155923) of the Registry of Deeds of Quezon City against its former president Marilyn R. Soliman (Marilyn) and her husband Napoleon (collectively, Spouses Soliman). In its complaint,⁷ Ricarcon alleged:

V.

That [Ricarcon Corporation] is the absolute owner and actual possessor of a parcel of commercial land, located at No. 55 corner Banawe-Linaw Streets, Quezon City, containing an area of

¹ *Rollo*, pp. 10-42.

² *Id.* at 44-56.

³ *Id.* at 58-60.

⁴ *Id.* at 406-414.

⁵ *Id.* at 415-421.

⁶ *Id.* at 254-255.

⁷ *Id.* at 61-66.

459.30 sq. meters, covered by TRANSFER CERTIFICATE OF TITLE NO. RT-101161 (155923), declared for taxation purposes under Tax Declaration No. D-112-01533, assessed at P3,411,380.00, xxx

VI.

That sometime on September 16, 2002, [Marilyn], then President of RICARCEN DEVELOPMENT CORPORATION, without the knowledge and consent of the Board of Directors of the corporation, in collusion with her husband and co-defendant [Napoleon], by falsifying public documents, did then and there willfully, unlawfully, feloniously, maliciously, and fraudulently execute a DEED OF REAL ESTATE MORTGAGE in favor of AW PENG LAM, for and in consideration of the sum of TEN MILLION PESOS (P10,000,000.00), Philippine Currency, with 36% interest per annum, using as security for the loan the above-described property of the corporation acknowledged on even date before Notary Public, Atty. Vicente C. Villamil, and entered in his Notarial Register Book as Doc. No. 177, Page 35, Book 376, Series of 2002 xxx

VII.

That sometime in July 2003, [Marilyn], perhaps bothered by her guilty conscience, confessed to her younger brother JOSEFELIX R. VILLANUEVA, the aforementioned transaction with AW PENG LAM and furnished the latter with a copy of the DEED OF REAL ESTATE MORTGAGE, together with other pertinent papers thereto which she alleged she falsified.

VIII.

Shocked and embittered by the revelation and betrayal by his own blood, JOSEFELIX R. VILLANUEVA solicited the legal services of the undersigned counsel in order to protect the interest of the corporation, its incorporators, officers and stockholders and with whom he has agreed to pay P200,000.00 by way of attorney's fees.

IX.

Upon verification with the Office of the Register of Deeds of Quezon City, the undersigned counsel discovered that the aforementioned DEED OF REAL ESTATE MORTGAGE was registered and annotated at the back of TCT No. RT-101161 (155923) although the document was on its face not registrable for the reason that there is no Authorization or Resolution of the Board of Directors of RICARCEN DEVELOPMENT CORPORATION.⁸

⁸ Id. at 63-64.

In their Answer⁹ dated 30 October 2003, Spouses Soliman admitted the fact of the mortgage to Aw Peng Lam. They, however, denied that the corporation (or its Board) did not give its consent to the mortgage and maintained that the proceeds of the loan, in the amount of approximately ₱6,900,000.00, was “used to pay for the outstanding loan of [Ricarcan] due and payable to BPI Family Savings Bank, Inc. xxx the amount of ₱130,000.00, more or less, was paid for the real property taxes ow[ed] by [Ricarcan] to the Quezon City government, for 2001-2002.”¹⁰

Spouses Soliman further denied falsifying the documents relating to the mortgage, claiming that they were only involved in the initial process of the negotiations and that the processing of the mortgage was left to the parties’ respective brokers. Marilyn alleges that she had no knowledge of any infirmities in the mortgage documents and that, in fact, she only learned “that the transaction was already completed when the money was about to be released by Mr. Aw Peng Lam.”¹¹

Respondent Aw Peng Lam, for his part, initially moved for the dismissal of the complaint, but this was denied by the trial court. He thereafter filed his Answer,¹² wherein he: (1) denied any participation in any fraud committed against Ricarcan; (2) maintained that he refinanced Ricarcan’s loan with BPI Family Savings by paying the amount of over ₱6,710,170.04, bringing the loan extended to [Ricarcan] to ₱10 million, exclusive of interest, other fees and expenses, with the subject property as security; and (3) claimed that he is a mortgagee in good faith and an innocent purchaser for value over the property he purchased as a result of the foreclosure. When his demands for payment was not heeded, Aw Peng Lam filed a petition for extrajudicial foreclosure over the subject property in accordance with Act No. 3135.¹³

Proceedings before the RTC

In its Pre-Trial Order dated 12 February 2008,¹⁴ the trial court approved the motion to declare Marilyn and Napoleon in default for their absence during the scheduled pre-trial conference. Trial thereafter ensued.

On 06 November 2014, the trial court rendered a Decision, the dispositive portion of which reads:

⁹ Id. at 88-92.

¹⁰ Id. at 89.

¹¹ Id. at 89-90.

¹² Id. at 216-225.

¹³ Id. at 407.

¹⁴ Id. at 226. Issued by Pairing Judge Teodoro A. Bay.

WHEREFORE, premises considered, for failure of [Ricarcent Corporation] to prove the (sic) preponderance of evidence its cause of action against the defendant Aw Peng Lam, the case is hereby ordered **DISMISSED**.

[Ricarcent Corporation] is hereby ordered to pay [Aw Peng Lam] attorney's fee (sic) in the amount of Five Hundred Thousand Pesos (P500,000.00).

[Aw Peng Lam]'s prayer for an award of moral and exemplary damages are hereby **DENIED**.

SO ORDERED.¹⁵

However, in the course of preparing its Decision, the trial court found that it "failed to schedule the case for ex-parte hearing [as against Spouses Soliman who were declared in default]" and scheduled the same on 12 February 2015.¹⁶

Ricarcent sought reconsideration¹⁷ on this matter, but its motion was denied by the trial court in an Order dated 02 March 2015.¹⁸ The RTC explained that several judgment was proper in this case inasmuch as all ascriptions of fraud pertained to Marilyn, and the liabilities, if any, of Aw Peng Lam and the Spouses Soliman were separate and distinct from each other. Ricarcent thereafter manifested in open court that it will no longer present any additional evidence insofar as Spouses Soliman were concerned.¹⁹

Subsequently, or on 14 July 2015, the trial court rendered another Decision,²⁰ this time with respect to the alleged liabilities of Spouses Soliman. Similar to its earlier Decision, the trial court found that Ricarcent failed to prove its cause of action with a preponderance of evidence. It found that: (1) Ricarcent knew that the subject property was to be sold at auction, but did not do anything to stop the same; (2) there was no attempt to pay the loan during and within the redemption period; and (3) Ricarcent benefited from the loan extended by Aw Peng Lam. The trial court also held that Ricarcent failed to present sufficient proof to support its claim of forgery. The dispositive portion of this Decision stated, to wit:

¹⁵ Id. at 413-414. In the Decision, it was likewise noted that, as a consequence of the foreclosure, TCT No. 260868 was subsequently issued in favor of Aw Peng Lam as the highest bidder in the public auction of the subject property.

¹⁶ Id. at 228.

¹⁷ Id. at 229-251.

¹⁸ Id. at 254-255.

¹⁹ Id. at 256-259.

²⁰ Id. at 406-421.

WHEREFORE, for failure of [Ricarcen] to prove its cause of action by preponderance of evidence, the complaint for annulment of real estate mortgage and cancellation of Entry No. 622205 on TCT No. 10111161 (sic) with damages is hereby DISMISSED.²¹

Aggrieved, Ricarcen filed a Notice of Appeal dated 06 August 2015,²² claiming that the foregoing Decisions of the RTC are contrary to law and the evidence on record.

Ruling of the CA

On 10 December 2018, the CA rendered its assailed Decision²³ denying Ricarcen's appeal and affirming the Decisions of the trial court.

The CA held that while it would have been more judicious for the trial court to render a single decision, its act of rendering separate decisions in this case is permitted under Section 4, Rule 36 of the Rules of Court. It noted that the Amended Complaint did not contain any allegation of fraud on the part of Aw Peng Lam. Thus, it concluded that since all ascriptions of fraud pertained to Marilyn, "it cannot be said that [Ricarcen] had a common cause of action against these parties."²⁴

Further, the CA agreed with the trial court that Ricarcen failed to meet the required quantum of evidence to prove its case. According to the CA, even assuming that the Board Resolution was spurious, Ricarcen's complaint must still be dismissed because Aw Peng Lam was a mortgagee in good faith and for value.²⁵

Ricarcen filed a motion for reconsideration,²⁶ which was denied by the CA in its Resolution dated 06 August 2019.²⁷ Hence, this petition.

²¹ Id. at 421.

²² Id. at 262-263.

²³ Id. at 44-56. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Justices (now member of the Court) Amy C. Lazaro-Javier and Remedios A. Salazar-Fernando, concurring.

²⁴ Id. at 51-52.

²⁵ Id. at 54-55.

²⁶ Id. at 374-393.

²⁷ Id. at 58-60.

Issues

Ricarcen claims that the CA erred in: (1) sustaining the validity of the Board Resolution authorizing Marilyn to mortgage the subject property to Aw Peng Lam; (2) applying the doctrine of apparent authority to justify Aw Peng Lam's reliance on the spurious Board Resolution; and (3) declaring Aw Peng Lam to be in good faith.²⁸

Ruling of the Court

We find that the issues submitted for this Court's consideration raise factual matters which fall beyond the ambit of a petition for review on *certiorari* under Rule 45 of the Rules of Court.

The issues of whether: 1) forgery exists,²⁹ 2) Ricarcen clothed Marilyn with apparent authority such that a person of ordinary prudence would be justified in presuming that she had authority to bind the corporation,³⁰ and 3) Aw Peng Lam was a mortgagee in good faith³¹ are all questions of fact, which require the reevaluation of evidence – a task best left to the trial courts.

Ricarcen, however, maintains its petition falls under the exemption from this rule that because the findings of the CA are “conclusions without a citation of the specific evidence on which they are based.”³²

We disagree. We have examined the assailed CA Decision and find the same to have sufficiently contains the basis of its findings. The CA considered and affirmed the findings of the trial court that Ricarcen failed to discharge its burden of proving its allegation of forgery, that the corporation benefited from the contested loan transaction with Aw Peng Lam as the proceeds were used to settle its outstanding obligation with BPI, and that Aw Peng Lam was an innocent mortgagee in good faith.³³

First, the trial court, which had the opportunity to receive and evaluate first-hand the evidence submitted by Ricarcen, explained its finding regarding the allegation of forgery, thus:

²⁸ Id. at 19.

²⁹ *Philippine Savings Bank v. Sakata*, G.R. No. 229450, 17 June 2020 [Per J. Leonen].

³⁰ See *Litonjua Jr. v. Eternit Corp.*, 523 Phil. 588 (2006)

³¹ *Ruiz v. Dimailig*, 799 Phil. 273, 281-282 (2016); *Dela Cruz-Pascual v. Development Bank of the Philippines*, G.R. No. 213637, 28 August 2019 [First Division].

³² *Rollo*, p. 23.

³³ Id. at 53-55.

xxx other than the self-serving testimonies of Elizabeth Chamoro, corporate secretary of the plaintiff corporation, Marie Anne Ramos, a member of the board, and Josefelix Villanueva, the incumbent President and siblings of defendant Marilyn Soliman, that the questioned Board Resolution (Exhibit E) is a forgery as the signatures contained therein are not their signatures, **no other competent and convincing evidence was presented by them to prove such fact.** The plaintiff corporation who disavows the authenticity of the signatures appearing on the Board Resolution bears the responsibility to present competent and convincing (sic) evidence to that effect. **A mere disclaimer is not enough.** At best, it should have presented expert witnesses to prove the veracity of their claim. This is because as a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery. While the result of the examination of a handwriting expert may not be conclusive upon the Court, it can guide the Court and may have a persuasive effect in arriving at a fair and just decision.³⁴

Second, the RTC concluded that Ricarcen benefited from the loan extended by Aw Peng Lam based on the following evidence presented during the course of the trial:

xxx Metrobank issued a Certification dated April 1, 2005 (Exhibit 2) to the effect that Aw Peng Lam purchased a Cashier's Check for payment to Ricarcen; that the check payable to BPI Family Bank to pay off the loan of Ricarcen was received and acknowledged by BPI Family Bank evidenced by a Certification dated January 23, 2005 (Exhibit 4) attesting payment of the loan of Ricarcen; that Marilyn Soliman also made a letter addressed to BPI Family Savings Bank (Exhibit 5) informing the bank that Aw Peng Lam will be paying off the loan in behalf of Ricarcen and to release the title to Aw Peng Lam; xxx³⁵

Notably, apart from the bare allegations of its witnesses, Ricarcen was unable to point to any evidence on record to prove its claim that it was never in default and that its loan with BPI Family Savings Bank was not paid off using the proceeds from the loan from Aw Peng Lam but rather from rental income from its many properties.

Third, even if We accept the premise that the Board Resolution was forged, Ricarcen cannot be allowed to assail the validity of the mortgage

³⁴ Id. at 421. Citations omitted. Emphasis supplied.

³⁵ Id. at 411.

contract to the prejudice of Aw Peng Lam. Ricarcen, in particular, takes exception to the application of the doctrines of apparent authority (to justify Aw Peng Lam's reliance on the spurious Board Resolution) and mortgagee in good faith.

The doctrine of apparent authority holds that a corporation is estopped from denying its officer's authority if it knowingly permits such officer to act within the scope of an apparent authority, and it holds him/her out to the public as possessing the power to do those acts.³⁶ The existence of apparent authority may also be ascertained through the corporation's "acquiescence in said officer's acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his/her ordinary powers."³⁷

On the other hand, the doctrine of a mortgagee in good faith provides that a mortgage contract and any foreclosure sale entered into by a mortgagor who is not the owner of the mortgaged property, his title being fraudulent, will still be given effect by reason of public policy. This doctrine is based on the rule that persons dealing with properties covered by a Torrens certificate of title are not required to go beyond what appears on the face of the title.³⁸ When, however, a person deals with registered land through someone who is *not* the registered owner, as in this case where Aw Peng Lam dealt with Marilyn and the subject property is registered in the name of Ricarcen, it becomes incumbent upon him to exercise a greater care and higher degree of prudence in dealing with the mortgagor.³⁹ In such cases, a prospective mortgagee cannot simply rely on the certificate of title; one has the duty to ascertain the identity of the person with whom one is dealing, as well as the latter's legal authority to convey.⁴⁰

This Court finds sufficient evidence on record to support the application of the foregoing doctrines. The trial court, in ruling for Aw Peng Lam, noted that:

xxx Betty Aw also went to the SEC and saw several documents, one of which is the General Information Sheet for 2002, showing that indeed [Marilyn] is the President and Chairman of the Board of plaintiff corporation. Defendant Aw Peng Lam, through his

³⁶ *Agro Food and Processing Corp. v. Vitarich Corp.*, G.R. No. 217454, 11 January 2021 [Per J. Hernando], 790 Phil. 631, 665 (2016).

³⁷ *Agro Food and Processing Corp. v. Vitarich Corp.*, *supra*.

³⁸ *Claudio v. Spouses Saraza*, 767 Phil. 857, 871 (2015) citing *Cavite Development Bank v. Spouses Lim*, 381 Phil. 355 (2000). See also *See Bautista v. Spouses Balolong*, G.R. No. 243296, 29 July 2020 [Per J. Delos Santos] citing *Andres v. Philippine National Bank*, 745 Phil. 459 (2014).

³⁹ *Dadis v. Spouses De Guzman*, 810 Phil. 749, 757 (2017); *Spouses Yabut v. Nachbaur*, G.R. No. 243470, 12 January 2021 [Per J. Carandang].

⁴⁰ *Abad v. Spouses Guimba*, 503 Phil. 321, 332 (2005).

daughter-in-law, even went to the Office of the Register of Deeds to verify the authenticity of Transfer Certificate of Title No. RT-101161 (155923) and found it existing with an annotation appearing thereon.⁴¹

The CA, for its part, also considered that:

xxx When the ocular inspection was conducted in the premises of the disputed property, defendant Marilyn Soliman has shown that she had free access to the property and the building constructed thereon. Upon verification by appellee Peng Lam, BPI likewise acknowledged defendant Marilyn Soliman's authority as appellant's representative and allowed the loan takeout. Lastly, appellee Peng Lam was shown by defendant Marilyn Soliman with a Board Resolution authorizing the latter to obtain a loan offering as collateral therefor the disputed property. We observe that upon its face, there is nothing in said Board Resolution that is calculated to arouse suspicion as it certainly appears to be regular.
xxx⁴²

We also note that in another case involving Ricarcen, wherein similar issues - albeit with a different creditors/mortgagees- were raised, this Court declared that "[a]s the former president of Ricarcen, it was within Marilyn's scope of authority to act for and enter into contracts in Ricarcen's behalf."⁴³ In that case, the Court also applied the doctrines of apparent authority and mortgagee in good faith to rule against Ricarcen and find the latter to have been negligent in conducting its business affairs.

At any rate, it is settled that factual findings of the trial court, when adopted and confirmed by the appellate court, as in this case, are accorded the highest degree of respect.⁴⁴ Such findings are binding and conclusive on this Court and will generally not be disturbed on appeal.⁴⁵ We may only delve into the facts of the case if there is a clear misapprehension of facts or when the inference drawn from the facts is manifestly mistaken.⁴⁶

Accordingly, We find neither mistake nor misapprehension of facts that can be ascribed to the trial court and the CA. We remain similarly unconvinced by Ricarcen's claim that the CA overlooked material facts. On the contrary, it appears that the questioned Decision proceeded from "a

⁴¹ *Rollo*, pp. 412-413. Emphasis supplied.

⁴² *Id.* at 54-55.

⁴³ *Calubad v. Ricarcen Development Corp.*, 817 Phil. 509, 528 (2017).

⁴⁴ *Tan v. Heirs of Yamson*, 698 Phil. 36 (2012).

⁴⁵ *Landbank of the Philippines v. Musni*, 806 Phil. 308, 318-319 (2017), citing *Philippine Banking Corporation v. Dy*, 698 Phil. 750 (2012).

⁴⁶ *Bautista v. Spouses Balolong*, *supra*.

thorough deliberation of the facts established by the submissions of the parties and the evidence on record.”⁴⁷ We thus see no reason to reverse the lower courts’ dismissal of Ricarcen’s complaint for annulment of real estate mortgage.

WHEREFORE, the petition is hereby **DENIED**. The Decision dated 10 December 2018 and Resolution dated 06 August 2019 of the Court of Appeals in CA-G.R. CV No. 105977 are **AFFIRMED**.

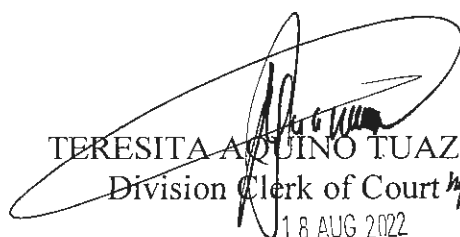
The Court resolves to:

1. **NOTE** the compliance dated 29 December 2021 by counsel for respondents Marilyn R. Soliman and Napoleon C. Soliman with the Show Cause Resolution dated 03 May 2021 for failure to file comment on the petition as required in the Resolution dated 06 January 2020, and stating that counsel has no intention of disobeying the directives and orders of this Court, or to perpetuate delay in the resolution of the instant petition as counsel’s non-compliance was brought about by inadvertence because the new handling counsel lost track of the case due to heavy workload and limited access to the law office due to the pandemic; that as an officer of the court, counsel undertakes to be more mindful and conscious of his duties and obligations and to not commit the same omission; and that respondents Marilyn R. Soliman and Napoleon C. Soliman shall no longer file any comment on the petition; and

2. **NOTE** the notice of change of address of counsel for respondents to No. 27 Phil-Am Road, Brgy. Kapitolyo, 1603 Pasig City, Metro Manila, and **GRANT** counsel’s request that copies of all notices, orders, resolutions, pleadings, motions and other papers in this case be sent at the aforesaid address.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *hyg/18*
18 AUG 2022

⁴⁷ *Prudential Bank v. Rapanot*, 803 Phil. 294, 307 (2017).

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