

SECOND DIVISION

[G.R. No. 123650, March 23, 2009]

WESTMONT BANK (FORMERLY ASSOCIATED CITIZENS BANK AND NOW UNITED OVERSEAS BANK, PHILS.) AND THE PROVINCIAL SHERIFF OF RIZAL, PETITIONERS, VS. INLAND CONSTRUCTION AND DEVELOPMENT CORP., RESPONDENT.

[G.R. NO. 123822]

WESTMONT BANK (FORMERLY ASSOCIATED CITIZENS BANK AND NOW UNITED OVERSEAS BANK, PHILS.), PETITIONER, VS. COURT OF APPEALS AND INLAND CONSTRUCTION AND DEVELOPMENT CORP., RESPONDENTS.

D E C I S I O N

CARPIO MORALES, J.:

Inland Construction and Development Corp. (Inland) obtained various loans and other credit accommodations from petitioner, then known as Associated Citizens Bank ([the bank] which later became United Overseas Bank, Phils., and still later Westmost Bank) in 1977.

To secure the payment of its obligations, Inland executed real estate mortgages over three real properties in Pasig City covered by Transfer Certificates of Title Nos. 4820, 4821 and 4822.^[1]

Inland likewise issued promissory notes in favor of the bank, *viz*:

Promissory Note No. BD-2739-77

Amount: P155,000.00

Due Date: January 2, 1978^[2]

Promissory Note No. BD-2884-77

Amount: P880,000.00

Due Date: February 23, 1978^[3]

Promissory Note No. BD-2997

Amount: P60,000.00

Due Date: March 22, 1978^[4] (Emphasis supplied)

When the first and second promissory notes fell due, Inland defaulted in its payments. It, however, authorized the bank to debit P350,000 from its savings account to partially satisfy its obligations.^[5]

It appears that by a Deed of Assignment, Conveyance and Release dated May 2,

1978, Felix Aranda, President of Inland, assigned and conveyed all his rights and interests at Hanil-Gonzales Construction & Development (Phils.) Corporation (Hanil-Gonzales Corporation) in favor of Horacio Abrantes (Abrantes), Executive Vice-President and General Manager of Hanil-Gonzales Corporation. Under the same Deed of Assignment, it appears that Abrantes assumed, among other obligations of Inland and Aranda, Promissory Note No. BD-2884-77 in the amount of P800,000 as shown in the May 26, 1978 Deed of Assignment of Obligation in which Aranda and Inland, on one hand, and Abrantes and Hanil-Gonzales Corporation, on the other, forged as follows:

x x x x.

WHEREAS, among the obligations assumed by Mr. HORACIO C. ABRANTES [in the May 2, 1978 Deed] is the account of the FIRST PARTY (Aranda and Inland) in favor of the ASSOCIATED CITIZENS BANK as evidenced by **Promissory Note No. BD-2884-77** in the amount of EIGHT HUNDRED EIGHTY THOUSAND (P880,000.00) PESOS, x x x x;

WHEREAS, **the parties herein have agreed to obtain the conformity of the ASSOCIATED CITIZENS BANK to the foregoing arrangement**
x x x x;

NOW, THEREFORE, the herein parties have mutually agreed that the SECOND PARTY (Abrantes and Hanil-Gonzalez) shall assume full and complete liability and responsibility for the payment to ASSOCIATED CITIZENS BANK Promissory Note No. BD-2884-77 x x x x.

THE SECOND PARTY shall make such necessary arrangements with the ASSOCIATED CITIZENS BANK for the full liquidation of said account, x x x x.

x x x x. (Emphasis and underscoring supplied)

The bank's Account Officer, Lionel Calo Jr. (Calo), signed for its conformity to the deed.^[6]

On December 14, 1979, Inland was served a Notice of Sheriff's Sale foreclosing the real estate mortgages over its real properties, prompting it to file a complaint for injunction against the bank and the Provincial Sheriff of Rizal at the Regional Trial Court (RTC) of Pasig City.^[7] This complaint was later amended.^[8]

Answering the amended complaint, the bank underscored that it "had no knowledge, much less did it give its conformity to the alleged assignment of the obligation covered by PN# BD-2884 [-77]."^[9]

The trial court found that the bank ratified the act of its account officer Calo, thus:

x x x x. Culled from the evidence on record, the Court finds that **the defendant Bank ratified the act of Calo when its Executive Committee failed to repudiate the assignment within a reasonable time and even approved the request for a restructuring of Liberty Const. & Dev. Corp./Hanil-Gonzales Construction & Development**

Corp.'s obligations, which included the P880,000.00 loan (Exhibit "U" to "X", and its submarkings). Clearly, the assumption of the loan was very well known to the defendant Bank and the latter posed no objection to it. In fact, the positive act on the part of the defendant in restructuring the loan of the assignee attest to its consent in the said transaction. The evidence on record conveys the fact that the Hanil-Gonzales Const. and Development Corp. assumed the obligation of the plaintiff on the SECOND NOTE. Later, it asked the defendant for a restructuring of its loan, including the P880,000.00 loan. *Thereafter, payments were made by the assignee to the defendant Bank.* The preponderance of evidence tilts heavily in favor of the plaintiff claiming that a case of delegacion occurs.^[10] (Emphasis and italics supplied; Underscoring in the original)

It accordingly rendered judgment in favor of Inland by Decision^[11] of March 31, 1992, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, permanently, perpetually and forever **restraining and enjoining** the defendants Associated Citizens Bank and the Sheriff of this Court **from proceeding with the foreclosure of and conducting an auction sale** on the real estate covered by and embraced in Transfer Certificates of Title Nos. 4820, 4821 and 4822 of the Register of Deeds of Rizal (now Pasig, Metro Manila) and to refund to plaintiff the amount of P8,866.89, with legal interest thereon from the filing of the complaint until full payment, with costs.

SO ORDERED. (Emphasis and underscoring supplied)

The bank appealed the trial court's decision to the Court of Appeals which, by Decision^[12] of May 31, 1995, modified the same, disposing as follows:^[13]

WHEREFORE, the decision appealed from is hereby AFFIRMED only insofar as it finds appellant Associated Bank to have ratified the Deed of Assignment (Exhibit "O"), but REVERSED in all other respects, and judgment is accordingly rendered ordering the plaintiff-appellee Inland Construction and Development Corporation to pay defendant-appellant Associated Bank the sum of One Hundred Eighty Six Thousand Two Hundred Forty One Pesos and Eighty Six Centavos (P186,241.86) with legal interest thereon computed from December 21, 1979 until the same is fully paid.

No pronouncement as to costs.

SO ORDERED. (Underscoring supplied)

In affirming the observation of the trial court that the bank ratified the assignment of Inland's Promissory Note No. BD-2884-77, the appellate court discoursed as follows:

In the instant case, both the assignors (Aranda and Inland) and assignees (Abrantes and Hanil-Gonzales) in the subject deed of assignment have been major clients of Associated Bank for several years with accounts amounting to millions of pesos. **For several years,**

Associated Bank had, either intentionally or negligently, been habitually clothing Calo with the apparent powers to perform acts in behalf of the bank. x x x x.

x x x x.

Calo signed the subject deed of assignment on or about May 26, 1978. The principal obligation covered by the deed involved a hefty sum of eight hundred eighty thousand pesos (P880,000.00). Despite the enormity of the amount involved, **Associated Bank never made any attempt to repudiate the act of Calo until almost seven (7) years later**, when Mitos C. Olivares, Manager of the Cash Department of Associated Bank, issued an INTER-OFFICE MEMORANDUM dated May 20, 1985 which pertinently reads:

"2) Conforme of Associated Bank signed by Lionel Calo Jr. has no bearing since he has no authority to sign for the bank as he was only an account officer with no signing authority;

x x x x.

5) I suggest, Mr. Calo be asked to be present at court hearings to explain why he signed for the bank, knowing his limitations"

The abovequoted inter-office memorandum is addressed internally to the other offices within Associated Bank. It is not addressed to Inland or any outsider for that matter. Worse, it was not even offered in evidence by Associated Bank to give Inland the opportunity to object to or comment on the said document, but was merely attached as one of the annexes to the bank's MEMORANDUM FOR DEFENDANTS. Obviously, no evidentiary weight may be attached to said inter-office memorandum, which is even self serving. In fact, it ought not to be considered at all. (Emphasis and underscoring supplied)

The appellate court, however, specifically mentioned that the "lower court erred when it rendered a decision which `permanently, perpetually and forever' restrains the sheriff from proceeding with the threatened foreclosure auction sale of the subject mortgage properties."^[14]

The bank moved for partial reconsideration of the appellate court's decision on the aspect of its ratification of the Deed of Assignment but the same was denied by Resolution^[15] of January 24, 1996.

The bank, via two different counsels,^[16] filed before this Court separate petitions for review, G.R. No. 123650, *Associated Citizens Bank, et al. v. Court of Appeals, et al*; and G.R. No. 123822, *Westmont Bank (formerly Associated Bank) v. Inland Construction & Development Corp.*, assailing the same appellate court's decision. Owing to a series of oversight,^[17] the petition in G.R. 123650 was initially dismissed but was later reinstated by Resolution of June 21, 1999.

The records^[18] show that Inland failed to file its comment and memorandum on the petitions.

Both petitions for review impute error on the part of the appellate court in

...AFFIRMING THE FINDING OF THE TRIAL COURT THAT PETITIONER HAVE [SIC] RATIFIED THE DEED OF ASSIGNMENT (EXH. "O").

The bank, which had, as reflected early on, become known as Westmont Bank (petitioner), maintains that Calo had no authority to bind it in the Deed of Assignment and that a single, isolated unauthorized act of its agent is not sufficient to establish that it clothed him with apparent authority. Petitioner adds that the records fail to disclose evidence of similar acts of Calo executed either in its favor or in favor of other parties.^[19] Moreover, petitioner reasserts that the unauthorized act of Calo never came to its knowledge, hence, it is not estopped from repudiating the Deed of Assignment.^[20]

The petitions fail.

The general rule remains that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation.^[21] If a corporation, however, consciously lets one of its officers, or any other agent, to act within the scope of an apparent authority, it will be estopped from denying such officer's authority.^[22]

The records show that Calo was the one assigned to transact on petitioner's behalf respecting the loan transactions and arrangements of Inland as well as those of Hanil-Gonzales and Abrantes. Since it conducted business through Calo, who is an Account Officer, it is presumed that he had authority to sign for the bank in the Deed of Assignment.

Petitioner cannot feign ignorance of the May 26, 1978 Deed of Assignment, the pertinent portion of which was quoted above. Notably, assignee Abrantes notified petitioner about his assumption of Inland's obligation. Thus, in his July 26, 1979 letter to petitioner, he wrote:

This refers to the accounts of Liberty Construction and Development Corporation (LCDC) and our sister-company, Hanil-Gonzalez Construction & Development Corporation (HGDCDC) which as of July 31, 1979 was computed at P1,814,442.40, inclusive of interest, penalties and fees, net of marginal deposits. **This includes the account of Inland Construction & Development Corporation which had been assumed by HGDCDC.**^[23] (Emphasis and underscoring supplied)

That petitioner sent the following reply-letter, dated November 29, 1982, to the above-quoted letter to it of assignee Abrantes indicates that it had full and complete knowledge of the assumption by Abrantes of Inland's obligation:

We are pleased to advise you that our Executive Committee in its meeting last November 25, 1982, has approved your request for the restructuring of your outstanding obligations x x x x.^[24] (Underscoring supplied)