

FIRST DIVISION

[G.R. No. 127227, February 28, 2001]

**PAZ S. LIM FOR HERSELF AND AS AN ATTORNEY-IN-FACT OF
ANTONIO S. LIM, JR., PETITIONER, VS. VICTORIA K. CHAN AND
CHRISTOPHER C. CHAN, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The case before the Court is an appeal *via certiorari* from the decision^[1] of the Court of Appeals dismissing the appeal on the ground that the trial court did not commit any reversible error when the latter dismissed the complaint in the case^[2] below on the ground of prescription, estoppel and lack of earnest efforts toward a compromise.

On October 1, 1973, petitioner Paz Lim and her husband Dr. Antonio T. Lim (now deceased) executed a special power of attorney before a notary public of Thurston County, Nebraska, U.S.A. They appointed petitioner's brother Carlos Chan, as their *attorney in fact*, empowering him with full power and authority to transfer, convey or lease, pledge, mortgage or hypothecate, sell, assign and dispose of all the petitioner's property, their fruits, any interest in or title thereon upon such terms and conditions as their attorney in fact shall deem fit and proper.^[3] The property involved nine (9) lots belonging to petitioner including those covered by TCT No. T-11681 and TCT No. T-11150 of the Register of Deeds, Davao City.

On October 3, 1973, petitioner and her husband also appointed Carlos K. Chan and Victor San as their attorneys-in-fact^[4] granting them the same powers as that given Carlos on October 1, 1973, over two (2) lots, including TCT No. 13007 of the Register of Deeds, Davao City.

On the strength of the two powers of attorney, Carlos Chan and Victor San executed three (3) deeds of sale in favor of Victoria K. San, the first on November 18, 1975, and both second and third deeds on September 25, 1978.^[5]

Consequently -

TCT No. 13007 was cancelled and TCT No. 70414 was issued on August 30, 1979;

TCT No. 11681 was cancelled and TCT No. 70381 was issued on August 29, 1979;
and

TCT No. 11150 was cancelled and TCT No. 48802 was issued on January 5, 1976.

On April 28, 1993, petitioner and her son, Antonio Lim, Jr. filed with the Regional

Trial Court, Davao City an action to annul the sale and to reconvey the property transferred in respondents' name. Petitioner claimed that she executed special powers of attorney designating Victoria K. San, Victor San and Carlos Chan to exercise control and supervision over the property. However, Victoria K. San registered in her name the three parcels of land entrusted to her, through the execution of deeds of sale. Thereafter, Victoria sold one of the three lots to respondent Christopher C. Chan. Petitioner contended that Victoria employed fraud in executing the deeds of sale in her favor. As an agent, she was prohibited from acquiring the assets of her principal. And the right to recover the property held in trust is imprescriptible.^[6]

After petitioner presented her evidence on the application of preliminary injunction on May 24, 1993, respondents filed a motion to dismiss the complaint based on prescription, laches, estoppel, and failure to comply with Rule 16 (j) of the Rules of Court. On June 17, 1993, the trial court dismissed the complaint, thus:

"From the foregoing consideration, the court finds the motion to dismiss on the grounds of prescription, estoppel and lack of earnest efforts toward a compromise before the filing of this case to be well-grounded, the same is GRANTED. Herein complaint is ordered DISMISSED.

"SO ORDERED.

"Given this 17th day of June 1993, at Davao City, Philippines.

"ROMEO D. MARASIGAN

"Judge"^[7]

On July 2, 1993, petitioner appealed to the Court of Appeals.^[8]

On May 10, 1996, the Court of Appeals promulgated its decision dismissing the appeal as follows:

"Since there is no allegation that the signature of plaintiffs-appellants' attorneys-in-fact in the deeds of sale were forged, or that the SPAs had been revoked at the time of the sale, the allegations in the complaint do not suffice to maintain the cause of action against Victoria and her successor-in-interest-co-defendant.

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"WHEREFORE, the appeal is hereby DISMISSED.

"SO ORDERED."^[9]

On May 21, 1996, petitioner filed with the Court of Appeals a motion for reconsideration of the dismissal;^[10] however, on October 30, 1996, the appellate Court denied the motion.^[11]

Hence, this appeal.^[12]

We have held repeatedly that judges and arbiters must draw up their decisions and