I. INTRODUCTION

A. PURPOSE

Under Article 1868 of the Civil Code, a contract of agency as one whereby "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."

The Spanish term for "principal" is "mandante". Among the terms used for "agent" are "mandatario", "attorney-in-fact", "proxy", "delegate" or "representative."

Root and Objectives of Agency
The right of inspection given to a stockholder under the law can be exercised either by himself or by any proper representative or attorney-in-fact, and either with or without the attendance of the stockholder. This is in conformity with the general rule that what a man may do in person he may do through another. *Philpotts v. Phil. Mfg. Co., 40 Phil 471 (1919).*

The purpose of every contract of agency is the ability, by legal fiction, to extend the personality of the principal through the facility of the agent; but the same can only be effected with the consent of the principal. *Orient Air Service & Hotel Representatives v. Court of Appeals, 197 SCRA 645 (1991).*

EUROTECH v CUISON
In a contract of agency, a person binds himself to render some service or to do something in representation or on behalf of another with the latter's consent. The underlying principle of the contract of agency is to accomplish results by using the services of others—to do a great variety of things like selling, buying, manufacturing, and transporting. Its purpose is to extend the personality of the principal or the party for whom another acts and from whom he or she derives the authority to act. It is said that the basis of agency is representation, that is, the agent acts for and on behalf of the principal on matters within the scope of his authority and said acts have the same legal effect as if they were personally executed by the principal.

B. DEFINITION

Art. 1868. 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.

> It is clear from Article 1868 that the basis of agency is representation. On the part of the principal, there must be an actual intention to appoint or an intention naturally inferable from his words or actions; and on the part of the agent, there must be an intention to accept the appointment and act on it, and in the absence of such intent, there is generally no agency. One factor which most clearly distinguishes agency from other legal concepts is control; one person - the agent - agrees to act under the control or direction of another - the principal. Indeed, the very word "agency" has come to connote control by the principal. *Victorias Milling Co. v. Court Appeals, 333 SCRA 663 (2000)*

Art. 1869. Agency may be express, or implied from the acts of the principal, from his silence or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority.

Agency may be oral, unless the law requires a specific form. (1710a)

When the buyers-*a-retro* failed for several years to clear their title to the property purchased and allowed the seller-*a-retro* to remain in possession in spite of the expiration of the period of redemption, then the execution of the memorandum of repurchase by the buyers' son-in-law, which stood unrepudiated for many years, constituted an implied agency under Article 1869 of the Civil Code, from their silence or lack of action, or their failure to repudiate the agency. *Conde v. Court of Appeals, 119 SCRA 245 (1982).*

Art. 1870. Acceptance by the agent may also be express, or implied from his acts which carry out the agency, or from his silence or inaction according to the circumstances. (n)

By the relationship of agency, one party called the principal authorizes another called the agent to act for and in his behalf in transactions with third persons.

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. "He who acts through another acts himself." *Rallos v. Felix Go Chan*
GR No. L-24332; 31 January 1978

C. ELEMENTS OF AGENCY

Art. 1868. 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. (1709a)

Rallos v. Felix Go Chan & Sons Realty Corp., 81 SCRA 251 (1978): The following are the essential elements of the contract of agency:

(a) Consent, express or implied, of the parties to establish the relationship;

(b) Object, is the execution of a juridical act in relation to third parties;

(c) The agent acts as a representative and not for himself;

(d) The agent acts within the scope of his authority.

Westmont Investment Corporation v. Amos Francia
In a contract of agency, a person binds himself to render some service or to do something in representation or on behalf of another with the latter's consent. It is said that the underlying principle of the contract of agency is to accomplish results by using the services of others—to do a great variety of things. Its aim is to extend the personality of the principal or the party for whom another acts and from whom he or she derives the authority to act. Its basis is representation. Significantly, the elements of the contract of agency are: (1) 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; (4) the agent acts within the scope of his authority.

CONSENT

The basis for agency is representation. On the part of the principal, there must be an actual intention to appoint or an intention naturally inferable from his words or actions; and on

the part of the agent, there must be an intention to accept the appointment and act on it, and in the absence of such intent, there is generally no agency. *Dominion Insurance Corp. v. Court of Appeals, 376 SCRA 239 (2002);* *Loadmasters Customs Services, Inc. v. Glodel Brokerage Corp., 639 SCRA 69 (2011).*

OBJECT: Execution of Juridical Acts in Behalf of Principal (Service)

In an agent-principal relationship, the personality of the principal is extended through the facility of the agent. In so doing, the agent, by legal fiction, becomes the principal, authorized to perform all acts which the latter would have him do. Such a relationship can only be effected with the consent the principal, which must not, in any way, be compelled by law or by any court. *Litonjua, Jr. v. Eternit Corp., 490 SCRA 204 (2006).*

CONSIDERATION: Agency Presumed to Be for Compensation, Unless There Is Proof to the Contrary

Presiding from the principle that the terms of the contract of agency constituted the law between the principal and the agent, then the mere fact that "other agents" intervened in the consummation of the sale and were paid their respective commissions could not vary the terms of the contract of agency with the plaintiff of a 5% commission based on the selling price. *De Castro v. Court of Appeals, 384 SCRA 607 (2002)*

D. EFFECTS OF AGENCY

Eurotech vs. Cuison
The underlying principle of the contract of agency is to accomplish results by using the services of others·to do a great variety of things like selling, buying, manufacturing, and transporting.By this legal fiction, the actual or real absence of the principal is converted into his legal or juridical presence "qui facit per alium facit per se".

Uy and Roxas vs. Court of Appeals
An agent of the seller is not a party to the contract of sale between his principal and the buyer; Since a contract may be violated only by the parties thereto as against each other, the real parties-in-interest, either as plaintiff or defendant, in an action upon that contract must, generally, either be parties to said contract.

II. AGENCY vs OTHER CONTRACTS

A. LEASE OF SERVICE and INDEPENDENT CONTRACTOR

Art. 1644. In the lease of work or service, one of the parties binds himself to execute a piece of work or to render to the other some service for a price certain, but the relation of principal and agent does not exist between them. (1544a)

From Employment Contract

The relationship between the corporation which owns and operates a theatre, and the individual it hires as a security guard to maintain the peace and order at the entrance of the theatre is not that of principal and agent, because the principle of representation was in no way involved. The security guard was not employed to represent the defendant corporation in its dealings with third parties; he was a mere employee hired to perform a certain specific duty or task, that of acting as special guard and staying at the main entrance of the movie

house to stop gate crashers and to maintain peace and order within the premises. *Dela Cruz v. Northern Theatrical Enterprises, 95 Phil 739 (1954).*

Tongko vs. The Manufacturer's Life Insurance Co
Tongko started his professional relationship with Manulife on July 1, 1977 by virtue of a Career Agent's Agreement (Agreement) he executed with Manulife.
In the Agreement, it is provided that:

It is understood and agreed that the Agent is an independent contractor and nothing contained herein shall be construed or interpreted as creating an employer-employee relationship between the Company and the Agent.
Sometime in 2001, Tongko was then terminated. Tongko filed a Complaint dated November 25, 2002 with the NLRC against Manulife for illegal dismissal In the Complaint.

Mere usage of the term "Agent/Agency" does not automatically make the relationship as such. The intent and actions of the parties may be different than what is assumed on face value.
In the instant case, Manulife had the power of control over Tongko that would make him its employee. Several factors contribute to this conclusion.
In the Agreement dated July 1, 1977 executed between Tongko and Manulife, it is provided that:

The Agent hereby agrees to comply with all regulations and requirements of the Company.Under this provision, an agent of Manulife must comply with three (3) requirements: (1) compliance with the regulations and requirements of the company; (2) maintenance of a level of knowledge of the company's products that is satisfactory to the company; and (3) compliance with a quota of new businesses.

Among the company regulations of Manulife are the different codes of conduct such as the Agent Code of Conduct, Manulife Financial Code of Conduct, and Manulife Financial Code of Conduct Agreement, which demonstrate the power of control exercised by the company over Tongko.

From Contract for a Piece-of-Work

Taking into consideration the facts that the operator owed his position to the company and the latter could remove him or terminate his services at will; that the service station belonged to the company and bore its tradename and the operator sold only the products of the company; that the equipment used by the operator belonged to the company and were just loaned to the operator and the company took charge of their repair and maintenance; that an employee of the company supervised the operator and conducted periodic inspection of the company's gasoline and service station; that the price of the products sold by the operator was fixed by the company and not by the operator; and that he was a mere agent, the finding of the Court of Appeals that the operator was an agent of the company and not an independent contractor should not be disturbed. *Shell v. Firemen's Ins. Co., 100 Phil 757 (1957).*

NIELSON vs. LEPANTO CONSOLIDATED MINING COMPANY
On January 30, 1937, Nielson & Co. executed an agreement with Lepanto Consolidated Mining Co. Lepanto owned the mining properties. Nielson operated and maintained the said properties for Php 2,500.00 / month as management fee plus 10% participation in the net profits for 5 years.

In 1941, the parties renewed their contract for another 5 years but the Pacific War broke out in December 1941. Thereafter, the Japanese army occupied the mining properties and left only on August 1945. On June 26, 1948 the mines resumed the operation under the exclusive management of Lepanto. However, after the mines were liberated in 1945, a disagreement arose between Nielson and Lepanto over the status of the operating contract which expired in 1947. On February 6, 1958, Nielson brought an action against Lepanto before the Court of First Instance (CFI) of Manila to recover damages suffered in view of the refusal of Lepanto to comply with the terms of its "Agency Contract".

In the old Civil Code, Article 1709 defines the contract of agency as "one person binds himself to render some service or to do something for the account or at the request of another." While Article 1544 defines contract of lease of service as "in a lease of work or services, one of the parties binds himself to make or construct something or to render a service to the other for a price certain."

The court determined the nature of the management contract in question wherein there was agreement for Nielson for 5 years had the right to renew, to explore, to develop, and to operate the mining claims of Lepanto. In the performance of this principal undertaking Nielson was not acting as an agent but one as performing material acts for an employer, for compensation.

From Broker

The question as to what constitutes a sale so as to entitle a real estate broker to his commissions is extensively annotated in the case of Lunney vs. Healey (Nebraska) . . . 44 Law Rep. Ann. 593 …, and the long line of authorities there cited support the following rule: # "The business of a real estate broker or agent, generally, is only to find a purchaser, and the settled rule as stated by the courts is that, in the absence of an express contract between broker and his principal, the implication generally is that the broker becomes entitled to the usual commissions whenever he brings to his principal a party who is able and willing to take the property and enter into a valid contract upon the terms then named by the principal, although the particulars may be arranged and the matter negotiated and completed between the principal and the purchaser directly." *Macondray & Co. v. Sellner, 33 Phil. 370 (1916).*

In relation thereto, we have held that the term "procuring cause" in describing a broker's activity, refers to a cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime objective of the employment of the broker—producing a purchaser ready, willing and able to buy on the owner's terms. To be regarded as the "procuring cause" of a sale as to be entitled to a commission, a broker's efforts must have been the foundation on which the negotiations resulting in a sale began. *Medrano v. Court of Appeals, 452 SCRA 77 (2005).*

A real estate broker is one who negotiates the sale of real properties. His business, Contrary to the appellate court's conclusion, this arrangement shows an agency. An agent receives a commission upon the successful conclusion of a sale. On the other hand, a broker earns his pay merely by bringing the buyer and the seller together, even if no sale is eventually made. (Obiter – the issue was whether it was an independent distributor of BMW cars in the Philippines) xHahn v. Court of Appeals, 266 SCRA 537 (1997).

B. PARTNERSHIP

Art. 1767. By the contract of partnership two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.

Two or more persons may also form a partnership for the exercise of a profession. (1665a)

LITONJUA VS LITONJUA
Aurelio and Eduardo are brothers. In 1973, Aurelio alleged that Eduardo entered into a contract of partnership with him. Aurelio showed as evidence a letter sent to him by Eduardo that the latter is allowing Aurelio to manage their family business and in exchange thereof he will be giving Aurelio P1 million or 10% equity, whichever is higher. A memorandum was subsequently made for the said partnership agreement. In 1992 however, the relationship between the brothers went sour. And so Aurelio demanded an accounting and the liquidation of his share in the partnership. Eduardo did not heed and so Aurelio sued Eduardo.

The partnership is void and legally nonexistent. The documentary evidence presented by Aurelio, did not prove partnership.

The 1973 letter from Eduardo on its face, contains typewritten entries, personal in tone, but is unsigned and undated. As an unsigned document, there can be no quibbling that said letter does not meet the public instrumentation requirements exacted under Article 1771 (how partnership is constituted) of the Civil Code. Moreover, being unsigned and doubtless referring to a partnership involving more than P3,000.00 in money or property, said letter cannot be presented for notarization, let alone registered with the Securities and Exchange Commission (SEC), as called for under the Article 1772 (capitalization of a partnership) of the Code.

The Memorandum is also not a proof of the partnership for the same is not a public instrument. Article 1773 of the Civil Code requires that if immovable property is contributed to the partnership an inventory shall be had and attached to the contract.

C. SALE

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

A contract of sale may be absolute or conditional. (1445a)

> When the terms of the agreement compels the purported agent to pay for the products received from the purported principal within the stipulated period, even when there has been no sale thereof to the public, the underlying relationship is not one of contract of agency to sell, but one of actual sale. A real agent does not assume personal responsibility for the payment of the price of the object of the agency; his obligation is merely to turn-over to the principal the proceeds of the sale once he receives them from the buyer. Consequently, since the underlying agreement is not an agency agreement, it cannot be revoked except for cause. *Quiroga v. Parsons, 38 Phil 502 (1918).*
>
> When under the agreement the purported agent becomes responsible for any changes in the acquisition

cost of the object he has been authorized to purchase from a supplier in the United States, the underlying agreement is not an contract of agency to buy, since a true agent does not bear any risk relating to the subject matter or the price. Being a contract of sale and not agency, any profits realized by the purported agent from discounts received from the American supplier pertained to it with no obligation to account for it, much less to turn it over, to the purported principal. *Gonzalo Puyat v. Arco, 72 Phil. 402 (1941).*

The distinctions between a sale and an agency are not difficult to discern and this Court, as early as 1970, had already formulated the guidelines that would aid in differentiating the two (2) contracts that the primordial differentiating consideration between the two (2) contracts is the transfer of ownership or title over the property subject of the contract. In an agency, the principal retains ownership and control over the property and the agent merely acts on the principal's behalf and under his instructions in furtherance of the objectives for which the agency was established. On the other hand, the contract is clearly a sale if the parties intended that the delivery of the property will effect a relinquishment of title, control and ownership in such a way that the recipient may do with the property as he pleases. *Spouses Viloria v. Continental Airlines, Inc., G.R. No. 188288. 16 January 2012.*

Victorias Milling Co., Inc. vs. Court of Appeals

The basis of agency is representation—on the part of the principal, there must be an actual intention to appoint or an intention naturally inferable from his words or actions, while on the part of the agent, there must be an intention to accept the appointment and act on it; One factor which most clearly distinguishes agency from other legal concepts is control—one person (the agent) agreeing to act under the control or direction of another (the principal).—It is clear from Article 1868 that the basis of agency is representation. On the part of the principal, there must be an actual intention to appoint or an intention naturally inferable from his words or actions; and on the part of the agent, there must be an intention to accept the appointment and act on it, and in the absence of such intent, there is generally no agency. One factor which most clearly distinguishes agency from other legal concepts is control; one person—the agent—agrees to act under the control or direction of another—the principal. Indeed, the very word "agency" has come to connote control by the principal. The control factor, more than any other, has caused the courts to put contracts between principal and agent in a separate category.

An authorization given to another containing the phrase "for and in our behalf" does not necessarily establish an agency, as ultimately, what is decisive is the intention of the parties, and the use of the words "sold and endorsed" means that the parties intended a contract of sale, and not an agency.—It appears plain to us that private respondent CSC was a buyer of the SLDFR form, and not an agent of STM. Private respondent CSC was not subject to STM's control. The question of whether a contract is one of sale or agency depends on the intention of the parties as gathered from the whole scope and effect of the language employed. That the authorization given to CSC contained the phrase "for and in our (STM's) behalf" did not establish an agency. Ultimately, what is decisive is the intention of the parties.

That no agency was meant to be established by the CSC and STM is clearly shown by CSC's communication to petitioner that SLDR No. 1214M had been "sold and endorsed" to it. The use of the words "sold and endorsed" means that STM and CSC intended a contract of sale, and not an agency. Hence, on this score, no error was committed by the respondent appellate court when it

III. KINDS OF AGENCY

A. AS TO FORM: ORAL v WRITTEN

Art. 1869. Agency may be express, or implied from the acts of the principal, from his silence or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority.

Agency may be oral, unless the law requires a specific form. (1710a)

Art. 1873. If a person specially informs another or states by public advertisement that he has given a power of attorney to a third person, the latter thereby becomes a duly authorized agent, in the former case with respect to the person who received the special information, and in the latter case with regard to any person.

The power shall continue to be in full force until the notice is rescinded in the same manner in which it was given. (n)

> A long-standing client, acting in good faith and without knowledge, having sent goods to sell on commission to the former agent of the defendant, can recover of the defendant, when no previous notice of the termination of agency was given said client. Having advertised the fact that Collantes was his agent and having given special notice to the plaintiff of that fact, and having given them a special invitation to deal with such agent, it was the duty of the defendant on the termination of the relationship of principal and agent to give due and timely notice thereof to the plaintiffs. Failing to do so, he is responsible to them for whatever goods may have been in good faith and without negligence sent to the agent without knowledge, actual or constructive, of the termination of such relationship. *Rallos v. Yangco*, 20 Phil 269 (1911)

Art. 1874. When a sale of a piece of land or any interest therein is through an agent, the authority of the latter shall be in writing; otherwise, the sale shall be void. (n)

> According to the provisions of Article 1874 on Agency, when the sale of a piece of land or any interest therein is made through an agent, the authority of the latter shall be in writing. Absent this requirement, the sale shall be void. Also, under Article 1878, a special power of attorney is necessary in order for an agent to enter into a contract by which the ownership of an immovable property is transmitted or acquired, either gratuitously or for a valuable consideration. *Estate of Lino Olaguer v. Ongjoco,* 563 SCRA 373 (2008).

Art. 1881. 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. (1714a)

Under Article 1881 of the Civil Code, the agent must act within the scope of his authority to bind his principal. So long as the agent has authority, express or implied, the principal is bound by the acts of the agent on his behalf, whether or not the third person dealing with the agent believes that the agent has actual authority. Thus, all signatories in a contract should be clothed with authority to bind the parties they represent. *Sargasso Construction & Development Corporation/Pick & Shovel, Inc.,/Atlantic Erectors, Inc. (Joint Venture) v. Philippine Ports Authority*, 623 SCRA 260 (2010).

Article 1881 of the Civil Code provides that "the agent must act within the scope of his authority." Pursuant to the authority given by the principal, the agent is granted the right "to affect the legal relations of his principal by the performance of acts effectuated in accordance with the principal's manifestation of consent." ✓*Pacific Rehouse Corp. v. EIB Securities, Inc.*, 633 SCRA 214 (2010).

Art. 1882. The limits of the agent's authority shall not be considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him. (1715)

Article 1882 of the Civil Code provides that the limits of an agent's authority shall not be considered exceeded should it have been performed in a manner advantageous to the principal than that specified by him. *Olaguer v. Purugganan, Jr.*, 515 SCRA 460 (2007).

The admissions obtained by the agent from the adverse party prior to the formal amendment of the complaint that included the principal as a party to the suit, can be availed of by the principal "since an agent may do such acts as may be conducive to the accomplishment of the purpose of the agency, admissions secured by the agent within the scope of the agency ought to favor the principal. This has to be the rule, for the act or declarations of an agent of the party within the scope of the agency and during its existence are considered and treated in turn as declarations, acts and representations of his principal and may be given in evidence against such party" *Bay View Hotel v. Ker & Co.*, 116 SCRA 327 (1982)

Yashizaki vs. Joy Training Center
Article 1868 of the Civil Code defines a contract of agency as a contract whereby 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." It may be express, or implied from the acts of the principal, from his silence or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority. As a general rule, a contract of agency may be oral. However, it must be written when the law requires a specific form. Specifically, Article 1874 of the Civil Code provides that the contract of agency must be written for the validity of the sale of a piece of land or any interest therein. Otherwise, the sale shall be void. A related provision, Article 1878 of the Civil Code, states that special powers of attorney are necessary to convey real rights over immovable properties.

The special power of attorney mandated by law must be one that expressly mentions a sale or that includes a sale as a necessary ingredient of the authorized act. We unequivocally declared in

Cosmic Lumber Corporation vs. Court of Appeals, 265 SCRA 168, that a special power of attorney must express the powers of the agent in clear and unmistakable language for the principal to confer the right upon an agent to sell real estate. When there is any reasonable doubt that the language so used conveys such power, no such construction shall be given the document. The purpose of the law in requiring a special power of attorney in the disposition of immovable property is to protect the interest of an unsuspecting owner from being prejudiced by the unwarranted act of another and to caution the buyer to assure himself of the specific authorization of the putative agent.

Wee vs. Castro
Respondents Annie de Castro and Felomina de Castro Uban each executed a Special Power of Attorney, giving respondent George de Castro the authority to initiate Civil Case No. 1990. A power of attorney is an instrument in writing by which one person, as principal, appoints another as his agent and confers upon him the authority to perform certain specified acts or kinds of acts on behalf of the principal. The written authorization itself is the power of attorney, and this is clearly indicated by the fact that it has also been called a "letter of attorney."

B. AS TO MANNER OF CONSTITUTION: EXPRESS v IMPLIED

Art. 1869. Agency may be express, or implied from the acts of the principal, from his silence or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority.

Art. 1870. Acceptance by the agent may also be express, or implied from his acts which carry out the agency, or from his silence or inaction according to the circumstances. (n)

Art. 1871. Between persons who are present, the acceptance of the agency may also be implied if the principal delivers his power of attorney to the agent and the latter receives it without any objection. (n)

Art. 1872. Between persons who are absent, the acceptance of the agency cannot be implied from the silence of the agent, except:

(1) When the principal transmits his power of attorney to the agent, who receives it without any objection;

(2) When the principal entrusts to him by letter or telegram a power of attorney with respect to the business in which he is habitually engaged as an agent, and he did not reply to the letter or telegram. (n)

Art. 1910. The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

As for any obligation wherein the agent has exceeded his power, the principal is not bound except when he ratifies it expressly or tacitly. (1727)

Art. 1911. Even when the agent has exceeded his authority, the principal is solidarily liable with the agent if the former allowed the latter to act as though he had full powers. (n)

Equitable PCI Bank vs. Ku

The Court is not wholly convinced by petitioner's argument. The Affidavit of Joel Rosales states that he is "not the constituted agent of 'Curato Divina Mabilog Nedo Magturo Pagaduan Law Office.'" An agency may be express but it may also be implied from the acts of the principal, from his silence, or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority. Likewise, acceptance by the agent may also be express, although it may also be implied from his acts which carry out the agency, or from his silence or inaction according to the circumstances. In this case, Joel Rosales averred that "[o]n occasions when I receive mail matters for said law office, it is only to help them receive their letters promptly," implying that counsel had allowed the practice of Rosales receiving mail in behalf of the former. There is no showing that counsel had objected to this practice or took steps to put a stop to it. The facts are, therefore, inadequate for the Court to make a ruling in petitioner's favor.

De la Peña vs. Hidalgo

The person who took charge of the administration of property without express authorization and without a power of attorney executed by the owner thereof, and performed the duties of his office without opposition or absolute prohibition on the owner's part, expressly communicated to the said person, is concluded to have administered the said property by virtue of an 'implied agency, in accordance with the provisions of article 1710 of the Civil Code, since the said owner of the property, knowing perfectly well that the said person took charge of the administration of the same, through designation by such owner's former agent who had to absent himself from the place for well-founded reasons, remained silent for nearly nine years. Although he did not send a new power of attorney to the said person who took charge of his property, the fact remains that, during the .period stated, he neither opposed nor prohibited the new agent with respect to the administration, nor did he appoint another person in his confidence; wherefore it must be concluded that this new agent acted by virtue of an implied agency, equivalent to a legitimate agency, tacitly conferred by the owner of the property administered.

C. AS TO EXTENT OF BUSINESS COVERED: GENERAL v SPECIAL

Art. 1876. An agency is either general or special.

The former comprises all the business of the principal. The latter, one or more specific transactions. (1712)

Art. 1877. An agency couched in general terms comprises only acts of administration, even if the principal should state that he withholds no power or that the agent may execute such acts as he may consider appropriate, or even though the agency should authorize a general and unlimited management. (n)

> A power of attorney is *an instrument in writing* by which one person, as principal, appoints another as his agent and confers upon his the authority to perform certain acts or kinds of acts on behalf of the principal. *Wee v. De Castro*, 562 SCRA 695 (2008).
>
> Nonetheless, we stress that the power of administration does not include acts of disposition or encumbrance, which are acts of strict ownership. As such, an authority to dispose cannot proceed from an authority to administer, and vice versa, for the two

powers may only be exercised by an agent by following the provisions on agency of the Civil Code (from Article 1876 to Article 1878). *Aggabao v. Parulan Jr.*, 629 SCRA 562 (2010).

Art. 1878. Special powers of attorney are necessary in the following cases:

(1) To make such payments as are not usually considered as acts of administration;

(2) To effect novations which put an end to obligations already in existence at the time the agency was constituted;

(3) To compromise, to submit questions to arbitration, to renounce the right to appeal from a judgment, to waive objections to the venue of an action or to abandon a prescription already acquired;

(4) To waive any obligation gratuitously;

(5) To enter into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration;

(6) To make gifts, except customary ones for charity or those made to employees in the business managed by the agent;

(7) To loan or borrow money, unless the latter act be urgent and indispensable for the preservation of the things which are under administration;

(8) To lease any real property to another person for more than one year;

(9) To bind the principal to render some service without compensation;

(10) To bind the principal in a contract of partnership;

(11) To obligate the principal as a guarantor or surety;

(12) To create or convey real rights over immovable property;

(13) To accept or repudiate an inheritance;

(14) To ratify or recognize obligations contracted before the agency;

(15) Any other act of strict dominion. (n)

To Make Payments "As Are Not Usually Considered as Acts of Administration"

In the case of the area manager of an insurance company, it was held that the payment of claims is not an act of administration, and that since the settlement of claims was not included among the acts enumerated in the Special Power of Attorney issued by the insurance company, nor is of a character similar to the acts enumerated therein, then a special power of attorney was required before such area manager could settle the insurance claims of the insured. Consequently, the amounts paid by the area manager to settle such claims cannot be reimbursed from the principal insurance company. Dominion Insurance Corp. v. Court of Appeals, 376 SCRA 239 (2002).

(2) To Effect Novations Which Put an End to Obligations Already in Existence at the Time the Agency Was Constituted

(3) To Compromise, To Submit Questions to Arbitration, To Renounce the Right to Appeal from a Judgment, To Waive Objections to the Venue of an Action, or To Abandon a Prescription Already Acquired

The power to compromise excludes the power to submit to arbitration. It would also be reasonable to conclude that the power to submit to arbitration does not carry with it the power to compromise. (Art. 1880)

When an agent has been empowered to sell hemp in a foreign country, that express power carries with it the implied power to make and enter into the usual and customary contract for its sale, which sale contract may provide for settlement of issues by arbitration. "We are clearly of the opinion that the contract in question is valid and binding upon the defendant [principal], and that authority to make and enter into it for and on behalf of the defendant [principal], but as a matter of fact the contract was legally ratified and approved by the subsequent acts and conducts of the defendant [principal]." Robinson Fleming v. Cruz, 49 Phil 42 (1926).

True, said counsel asserted that he had verbal authority to compromise the case. The Rules, however, require, for attorneys to compromise the litigation of their clients, a "special authority" (Section 23, Rule 138, Rules of Court). And while the same does not state that the special authority be in writing, the court has every reason to expect, that, if not in writing, the same be duly established by evidence other than the self-serving assertion of counsel himself that such authority was verbally given to him. For, authority to compromise cannot lightly be presumed. Home Insurance Co. v. USL, 21 SCRA 863 (1967).

(4) To Waive Any Obligation Gratuitously

(5) To Enter Into Any Contract by Which the Ownership of an Immovable Is Transmitted or Acquired Either Gratuitously or for a Valuable Consideration

Also, under Article 1878 of the Civil Code, a special power of attorney is necessary for an agent to enter into a contract by which the ownership of an immovable property is transmitted or acquired, either gratuitously or for a valuable consideration. *Pahud v. Court of Appeals, 597 SCRA 13 (2009).*

According to the provisions of Article 1874 on Agency, when the sale of a piece of land or any interest therein is made through an agent, the authority of the latter shall be in writing. Absent this requirement, the sale shall be void. Also, under Article 1878, a special power of attorney is necessary in order for an agent to enter into a contract by which the ownership of an immovable property is transmitted or acquired, either gratuitously or for a valuable consideration. *Estate of Lino Olaguer v. Ongjoco, 563 SCRA 373, 393-394 (2008).*

While the law requires a special power of attorney, the general power of attorney was sufficient in this case, as Olaguer was expressly empowered to sell any of Virgilio's properties; and to sign, execute, acknowledge and delivery any agreement therefor. Even if a document is designated as a general power of attorney, the requirement of a special power of attorney is met if there is a clear mandate from the principal specifically

authorizing the performance of the act. [Bravo-Guerrero v. Bravo, 465 SCRA 244 (2005)]. The special power of attorney can be included in the general power when the act or transaction for which the special power is required is specified therein." *Estate of Lino Olaguer v. Ongjoco, 563 SCRA 373 (2008).*

(5-A) Sale of a Piece of Land or Interest Therein

Absence of a written authority to sell a piece of land is ipso jure void, precisely to protect the interest of an unsuspecting owner from being prejudiced by the unwarranted act of another. *Pahud v. Court of Appeals, 597 SCRA 13 (2009).*

Under Article 1874, when a sale of a piece of land or any interest therein is through an agent, the authority of the agent shall be in writing, otherwise the sale shall be void.

Agency may be oral unless the law requires a specific form. However, to create or convey real rights over immovable property, a special power of attorney is necessary. Thus, when a sale of a piece of land or any portion thereof is through an agent, the authority of the latter shall be in writing, otherwise, the sale shall be void. *Litonjua, Jr. v. Eternit Corp., 490 SCRA 204 (2006).*

The Civil Code provides that in the sale of a parcel of land or any interest therein made through an agent, a special power of attorney is essential. [Article 1878]. This authority must be in writing, otherwise the sale shall be void. [Article 1874] *Pineda v. Court of Appeals, 376 SCRA 222, 228 (2002).*

Where in the special power of attorney the agent was primarily empowered by the corporation to bring an ejectment case against the occupant and also "to compromise . . . so far as it shall protect the rights and interest of the corporation in the aforementioned lots," and that the agent did execute a compromise in the legal proceedings filed which sold the lots to the occupant, the compromise agreement that effected a sale of the lots is void for the power to sale by way of compromise could not be implied to protect the interests of the principal to secure possession of the properties. *Cosmic Lumber v. Court of Appeals, 265 SCRA 168 (1996)*

The express mandate required by Article 1874 to enable an appointee of an agency couched in general terms to sell must be one that expressly mentions a sale of a piece of land or that includes a sale as a necessary ingredient of the act mentioned. The power of attorney need not contain a specific description of the land to be sold, such that giving the agent the power to sell "any or all tracts, lots, or parcels" of land belonging to the principal is adequate. *Domingo v. Domingo, 42 SCRA 131 (1971).*

When no particular formality is required by law, rules or regulation, then the principal may appoint his agent in any form which might suit his convenience or that of the agent, in this case a letter addressed to the agent requesting him to file a protest in behalf of the principal with the Collector of Customs against the appraisement of the merchandise imported into the country by the principal. *Kuenzle and Streiff v. Collector of Customs, 31 Phil 646 (1915).*

Where the nephew in his own name sold a parcel of land with a masonry house constructed thereon to the company, when in fact it was property owned by the uncle, but in the estafa case filed by the company against the nephew, the uncle swore under oath that he had authorized his nephew to sell the

property, the uncle can be compelled in the civil action to execute the deed of sale covering the property. "It having been proven at the trial that he gave his consent to the said sale, it follows that the defendant conferred verbal, or at least implied, power of agency upon his nephew Duran, who accepted it in the same way by selling the said property. The principal must therefore fulfill all the obligations contracted by the agent, who acted within the scope of his authority. (Arts. 1709, 1710 and 1727) *Gutierrez Hermanos v. Orense, 28 Phil. 572 (1914).*

A power of attorney to convey real property need not be in a public document, it need only be in writing, since a private document is competent to create, transmit, modify, or extinguish a right in real property. *Jimenez v. Rabot, 38 Phil 378 (1918).*

(5-B) Agents Cannot Buy Property of Principal Unless Authorized (Art. 1491[2])

The prohibition against agents purchasing property in their hands for sale or management is, however, clearly, not absolute. When so authorized by the principal, the agent is not disqualified from purchasing the property he holds under a contract of agency to sell. *Olaguer v. Purugganan, Jr., 515 SCRA 460 (2007).*

(6) To Lease Real Property for More Than One Year

Article 1878 of the Civil Code expresses that a special power of attorney is necessary to lease any real property to another person for more than one year. The lease of real property for more than one year is considered not merely an act of administration but an act of strict dominion or of ownership. A special power of attorney is thus necessary for its execution through an agent. *Shopper's Paradise Realty v. Roque, 419 SCRA 93 (2004).*

Where the lease contract involves the lease of real property for a period of more than one year, and it was entered into by the agent of the lessor and not the lessor herself, in such a case, Article 1878 of the Civil Code requires that the agent be armed with a special power of attorney to lease the premises. Consequently, the provisions of the contract of lease, including the grant therein of an option to purchase to the lessee, would be unenforceable. *Vda. De Chua v. IAC, 229 SCRA 99 (1994).*

When the attorney-in-fact was empowered by his principal to make an assignment of credits, rights, and interests, in payment of debts for professional serviced rendered by laws, and the hiring of lawyers to take charge of any actions necessary or expedient for the interests of his principal, and to defend suits brought against the principal, such powers necessarily implies the authority to pay for the professional services thus engaged, which includes assignment of the judgment secured for the principal in settlement of outstanding professional fees. *Municipal Council of Iloilo v. Evangelista, 55 Phil. 290 (1930).*

(7) To Create or Convey Real Rights over Immovable Property

"There is no documentary evidence on record that the respondents-owners specifically authorized respondent Fernandez to sell their properties to another, including the petitioners. Article 1878 of the New Civil Code provides that a special power of attorney is necessary to enter into any contract by which the ownership of an immovable is transmitted or

acquired either gratuitously or for a valuable consideration, or to create or convey real rights over immovable property, or for any other act of strict dominion. Any sale of real property by one purporting to be the agent of the registered owner without any authority therefore in writing from the said owner is null and void. The declarations of the agent alone are generally insufficient to establish the fact or extent of her authority." *Litonjua v. Fernandez, 427 SCRA 478, 493 (2004).*

(8) To Make Gifts

(9) To Loan or Borrow Money

Except: The agent may borrow money when it's urgent and indispensable for the preservation of the things which are under administration.

Power to Sell Excludes Power to Mortgage and Vice Versa (Art. 1879)

A special power of attorney is necessary for an agent to borrow money, unless it be urgent and indispensable for the preservation of the things which are under administration. *Yasuma v. Heirs of Cecilio S. De Villa, 499 SCRA 466 (2006).*

It is a general rule in the law agency that, in order to bind the principal by a mortgage on real property executed by an agent, it must upon its face purport to be made, signed and sealed in the name of the principal, otherwise, it will bind the agent only. *Gozun v. Mercado 511 SCRA 305 (2006).*

A power of attorney, like any other instrument, is to be construed according to the natural import of its language; and the authority which the principal has conferred upon his agent is not to be extended by implication beyond the natural and ordinary significance of the terms in which that authority has been given. The attorney has only such authority as the principal has chosen to confer upon him, and one dealing with him must ascertain at his own risk whether his acts will bind the principal. Thus, where the power of attorney which vested the agent with authority "for me and in my name to sign, seal and execute, and as my act and deed, delivery any lease, any other deed for conveying any real or personal property" or "any other deed for the conveying of any real or personal property," it does not carry with it or imply that the agent for and on behalf of his principal has the power to execute a promissory note or a mortgage to secure its payment. *National Bank v. Tan Ong Sze, 53 Phil. 451 (1929).*

Where the power of attorney executed by the principal authorized the agent "By means of a mortgage of my real property, to borrow and lend sums in cash, at such interest and for such periods and conditions as he may deem property and to collect or to pay the principal and interest thereon when due," while it did not authorize the agent to execute deeds of sale with right of repurchase over the property of the principal, nonetheless would validate the main contract of loan entered into with the deed of sale with right of repurchase constituting merely an equitable mortgage, both contracts of which were within the scope of authority of the agent to enter into in the name of the principal. *Rodriguez v. Pamintuan and De Jesus, 37 Phil 876 (1918).*

A special power of attorney to mortgage real estate is limited to such authority to mortgage and does not bind the

grantor personally to other obligations contracted by the grantee (in this case the personal loan obtained by the agent in his own name from the PNB) in the absence of any ratification or other similar act that would estop the grantor from questioning or disowning such other obligations contracted by the grantee. *Philippine National Bank v. Sta. Maria, 29 SCRA 303 (1969).*

In other words, the power to mortgage does not include the power to obtain loans, especially when the grantors allege that they had no benefit at all from the proceeds of the loan taken by the agent in his own name from the bank. "It is not unusual in family and business circles that one would allow his property or an undivided share in real estate to be mortgaged by another as security, either as an accommodation or for valuable consideration, but the grant of such authority does not extend to assuming personal liability, much less solidary liability, for any loan secured by the grantee in the absence of express authority so given by the grantor." *Philippine National Bank v. Sta. Maria, 29 SCRA 303, 310 (1969).*

Where the power of attorney given to the husband by the wife was limited to a grant of authority to mortgage a parcel of land titled in the wife's name, the wife may not be held liable for the payment of the mortgage debt contracted by the husband, as the authority to mortgage does not carry with it the authority to contract obligation. *De Villa v. Fabricante, 105 Phil. 672 (1959).*

(10) To Bind the Principal to Render Some Service Without Compensation

(11) To Bind the Principal in a Contract of Partnership

(12) To Obligate the Principal as a Guarantor or Surety

Where a power of attorney is executed primarily to enable the attorney-in-fact, as manager of a mercantile business, to conduct its affairs for and on behalf of the principal, who is the owner of the business, and to this end the attorney-in-fact is authorized to execute contracts relating to the principal's property ["act and deed delivery, any lease, or any other deed for the conveying any real or personal property" and "act and deed delivery, any lease, release, bargain, sale, assignment, conveyance or assurance, or any other deed for the conveying any real or personal property"] , such power will not be interpreted as giving the attorney-in-fact power to bind the principal by a contract of independent guaranty or surety unconnected with the conduct of the mercantile business. General words contained in such power will not be interpreted to extend power to the making of a contract of suretyship, but will be limited, under the well-known rule of construction indicated in the express in ejusdem generis, as applying to matters similar to those particularly mentioned. *Director v. Sing Juco, 53 Phil 205 (1929*).

(13) To Accept or Repudiate an Inheritance

(14) To Ratify or Recognize Obligations Contracted Before the Agency

Where it appears that a wife gave her husband a power of attorney "to loan and borrow money" and to mortgage her property, that fact does not carry with it or imply that he has a legal right to sign her name to a promissory note which would make her liable for the payment of a pre-existing debt of the husband or that of his firm, for which she was not previously

liable, or to mortgage her property to secure the pre-existing debt. *Bank of P.I. v. De Coster, 47 Phil 594 (1925).*

Where the terms of the power granted to the substituted attorney-in-fact was to the end that the principal-seller may be able to collect the balance of the selling price of the printing establishment sold, such substitute agent had no power to enter into new sales arrangements with the buyer, or to novate the terms of the original sale. *Villa v. Garcia Bosque, 49 Phil 126 (1926).*

(1) General or Universal Agency

An agent may be (1) universal; (2) general, or (3) special. A universal agent is one authorized to do all acts for his principal which can lawfully be delegated to an agent. So far as such a condition is possible, such an agent may be said to have universal authority. A general agent is one authorized to do all acts pertaining to a business of a certain kind or at a particular place, or all acts pertaining to a business of a particular class or series. He has usually authority either expressly conferred in general terms or in effect made general by the usages, customs or nature of the business which he is authorized to transact. An agent, therefore, who is empowered to transact all the business of his principal of a particular kind or in a particular place, would for this reason, be ordinarily deemed a general agent. A special agent is one authorized to do some particular act or to act upon some particular occasion. He acts usually in accordance with specific instructions or under limitations necessarily implied from the nature of the act to be done. *Siasat v. IAC, 139 SCRA 238 (1985).*

Woodchild Holdings, Inc. vs. Roxas Electric and Construction
Powers of attorney are generally construed strictly and courts will not infer or presume broad powers from deeds which do not sufficiently include property or subject under which the agent is to deal. The general rule is that the power of attorney must be pursued within legal strictures, and the agent can neither go beyond it; nor beside it. The act done must be legally identical with that authorized to be done.

(2) Special or Particular Agency

Insular Drug Co. vs. National Bank,
The right of an agent to indorse commercial paper is a very responsible power and will not be lightly inferred. A salesman with authority to collect money belonging to his principal does not have the implied authority to indorse checks received in payment. Any person taking checks made payable to a corporation, which can act only by agents does so at his peril, and must abide by the consequences if the agent who indorses the same is without authority.
When a bank accepts the indorsements on checks made out to a drug company of a salesman of the drug company and the indorsements of the salesman's wife and clerk, and credits the checks to the personal account of the salesman and his wife, permitting them to make withdrawals, the bank makes itself responsible to the drug company for the amounts represented by the checks, unless it is pleaded and proved that after the money was withdrawn from the bank, it passed to the drug company which thus suffered no loss.

Bravo-Guerrero vs. Bravo
The Court agrees with the trial court that Simona authorized Mauricio to dispose of the Properties when she executed the GPA. True, Article 1878 requires a special power of attorney for an agent to execute a contract that transfers the ownership of an

immovable. However, the Court has clarified that Article 1878 refers to the nature of the authorization, not to its form. Even if a document is titled as a general power of attorney, the requirement of a special power of attorney is met if there is a clear mandate from the principal specifically authorizing the performance of the act.

D. AS TO EFFECTS: OSTENSIBLE v. REPRESENTATIVE/ SIMPLE v COMMISSION

Art. 1868. 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. (1709a)

Sargasso Construction vs. Philippine Ports Authority
The authority of government officials to represent the government in any contract must proceed from an express provision of law or valid delegation of authority—without such actual authority being possessed by Philippine Ports Authority's (PPA's) general manager, there could be no real consent, much less a perfected contract, to speak of.

The doctrine of apparent authority, in the realm of government contracts, has been restated to mean that the government is not bound by unauthorized acts of its agents, even though within the apparent scope of their authority; Apparent authority, or what is sometimes referred to as the "holding out" theory, or doctrine of ostensible agency, imposes liability, not as the result of the reality of a contractual relationship, but rather because of the actions of a principal or an employer in somehow misleading the public into believing that the relationship or the authority exists.

Nichimen Corporation (Manila Branch) vs. Court of Appeals
A broker, in general, is a middleman who acts for others, on a commission, negotiating contracts relative to property with the custody of which he has no concern—he is, in more ways than one, an agent of both parties.—A broker, in general, is a middleman who acts for others, on a commission, negotiating contracts relative to property with the custody of which he has no concern; he is, in more ways than one, an agent of both parties. His task is to bring the parties together and to get them to come to an agreement. A basic characteristic of a broker is that he acts not for himself, but for a third person, regardless of whether the fee paid to him is a fixed amount, regular or not, or whether the act performed by him can be performed by the principal or not. Strictly, a commission merchant differs from a broker in that he may buy and sell in his own name without having to disclose his "principal," for which purpose, the goods are placed in his session and at his disposal, features that are not true in the case of a broker. The commission merchant thus maintains a relation not only with the parties but also with the property subject matter of the transaction. A dealer buys and sells for his own account.

E. AS TO COMPENSATION: GRATUITOUS v COMPENSATED

Philippine Health-Care Providers, Inc. v. Carmela Estrada
Philippine Health-Care Services, Inc. (Maxicare) engaged the services of Carmela Estrada in order to promote and sell their Maxicare Plan. She was appointed as Maxicare's "General Agent" and was entitled to commission on corporate accounts from all membership dues collected and remitted by her to Maxicare under their letter-agreement. Under such agreement, Estrada made proposals to the officers of Meralco regarding the Maxicare plan but when Mercalco decided to subscribe, Maxicare directly negotiated with Meralco, leaving Estrada out of the discussions. The deal with Meralco was closed.

Estrada demanded from Maxicare that she be paid commissions for the Meralco account and 9 other accounts but was denied for the reason that it was Maxicare that directly negotiated with Meralco and the 9 other accounts.

Due to this, she filed a complaint in the RTC and CA.

Whether the Court of Appeals committed serious error in affirming Estrada's entitlement to commissions for the execution of the service agreement between Meralco and Maxicare.

Yes. Contrary to Maxicare's assertion, the trial and the appellate courts carefully considered the facts of the case through records. Both courts concluded that Maxicare successfully landed the Meralco account for the sale of healthcare plans only by virtue of Estrada's involvement and participation in the negotiations.

Estrada penetrated the Meralco market, initially closed Maxicare and laid the groundwork for a business relationship. She was unable to participate in the collection and remittance of premium dues to Maxicare for she was prevented from doing so by the acts of Maxicare, its officers, and employees. As such she is entitled to a commission.

PROCURING CAUSE: a cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime objective of the employment of the broke.

Sanchez v Medicard Philippines Inc
Medicard appointed Sanchez as its special corporate agent with a commission based on the "cash brought in". Because of the efforts of Sanchez, Medicard and United Laboratories Group of Companies (Unilab) executed a Health Care Program Contract in which Unilab shall pay Medicard a fixed monthly premium for the health insurance of its personnel.

A year later, it was renewed through Sanchez's efforts with an increased insurance premium along with Sanchez's commission. Prior to expiration of the new contract, Medicard proposed, though Sanchez, an increase in premium payments from Unilab. Unilab however found this too high and through Dr. Nicanor Montoya, its president and general manager, requested Sanchez to reduce his commission, but was refused. Unilab then opted not to renew the contract.
Unilab, through Ejercito, negotiated with Dr. Montoya and other officers of Medicard, in order to continue the insurance coverage of those personnel. Under the new scheme, Unilab shall pay only the amount corresponding to the actual hospitalization expenses.

Sanchez was not granted any commission under the new scheme and later filed a complaint for collection of money against Medicard which was dismissed by the RTC and affirmed by the CA.

Whether or not the CA erred in holding that the contract of agency under the old contract has been revoked by Medicard with the new scheme, hence, petitioner is not entitled to a commission.

Yes. There was no aid from Sanchez in the consummation of the contract creating the new scheme under Medicard and Unilab. The Court noted that in order for an agent to be entitled to a commission, he must be the procuring cause of the sale. It means that the measures employed by him and the efforts he exerted must result in a sale as such the agent receives his commission only upon the successful conclusion of a sale.

Furthermore, Medicard directly negotiated with Unilab, revoking its agency contract with petitioner. Revocation is authorized by

Article 1924 wherein agency is revoked if the principal directly manages the business entrusted to the agent, dealing directly with third persons.

EXCEPTION: In Prats v CA – as a measure of equity an agent who is not the efficient procuring cause is nonetheless entitled to his commission, where said agent, notwithstanding the expiration of his authority, nonetheless, took diligent steps to bring back together the parties, such that a sale was finalized and consummated between them. Manotok Bros. v CA applied this rule - agent (in Manotok) is entitled to a commission since he was the efficient procuring cause of the sale, notwithstanding that the sale took place after his authority had lapsed.

F. AGENCY BY ESTOPPEL

Art. 1873. If a person specially informs another or states by public advertisement that he has given a power of attorney to a third person, the latter thereby becomes a duly authorized agent, in the former case with respect to the person who received the special information, and in the latter case with regard to any person.

The power shall continue to be in full force until the notice is rescinded in the same manner in which it was given. (n)

Even when the agent has exceeded his authority, (i.e, he acts without authority from the principal, the principal shall be held solidarily liable with the agent if he allowed the agent to act as though he had full powers.

Where the principal had expressly revoked the power of the agent to handle the affairs of the business, but such revocation was not conveyed to a long-standing client to whom the agent had been specifically endorsed in the past by the principal, the revocation was not deemed effective as to such client and the contracts entered into by the agent in the name of the principal after the revocation would still be valid and binding against the principal. ✓*Rallos v. Yangco*, *20 Phil 269 (1911).*

Litonjua v Eternit
Eternit is a manufacturer of roofing materials and pipe products in the Philippines and operates on eight parcels of lands in Mandaluyong City. 90% of the shares of Eternit were owned by ESAC, a Belgian company.

In 1986, ESAC's management grew wary of the political situation of the Philippines and instructed Michael Adams, a member of EC's Board of Directors, to dispose of the eight parcels of lands. Eternit via Glanville, president and general manager, engaged Marquez as a broker for sale who sought the Litonjuas. The Litonjuas showed interest and offered to pay. They were later given a counteroffer via Deslaux, director of Asia of ESAC, and accepted. With the change in political situation Eternit via Glanville aborted the sale. Litonjua's filed for damages for aborted sale.

Whether or not there was an agency by estoppel

No. The Court noted that there was no agency by estoppel. The following are the requisites for agency by estoppel: (1) the principal manifested a representation of the agent's authority or knowingly allowed the agent to assume such authority; (2) the third person, in good faith, relied upon such representation; (3) relying upon such representation, such third person has changed his position to his detriment. In the case, there was lack of proof

of reliance on such representation because in the communications between the Litonjuas and Glanville, Delsaux and Marquez, the latter parties clearly stated that they were acting in the behalf of ESAC only. There was no ratification by Eternit for there is no proof showing that the communications between them were forwarded to Eternit's Board of Directors for ratification.

Even when the agent of the real estate company acts unlawfully and outside the scope of authority, the principal can be held liable when by its own act it accepts without protest the proceeds of the sale of the agents which came from double sales of the same lots, as when learning of the misdeed, it failed to take necessary steps to protect the buyers and failed to prevent further wrong from being committed when it did not advertise the revocation of the authority of the culprit agent. In such case the liabilities of both the principal and the agent is solidary. *Manila Remnants v. Court of Appeals, 191 SCRA 622 (1990)*

Naguiat v. CA
Queaño applied with Naguiat for a loan in the amount of 200,000 php. Naguiat indorsed to Queaño Associated Bank Check for the amount 95,000 php, which was earlier issued to Naguiat by the Corporate Resources Financing Corporation. Naguiat also issued her own Filmanbank Check, to the order of Queaño, and for the amount of 95,000 php. The proceeds of these checks were to constitute the loan and was secured via Queaño executing a Deed of Real Estate Mortgage in favor of Naguiat, and surrendering to the owner's duplicates of the titles covering the mortgaged properties.

Queaño issued to Naguiat a promissory note for the amount of 200,000 php at an interest of 12% per annum. Queaño also issued a posdated check for the amount of 200,000 php and payable to the order of Naguiat.

Upon presentment on its maturity date, the Security Bank check was dishonored for insufficiency of funds and Queaño received a demand letter for settlement of the loan. Queaño and Ruebenfeldt met with Naguiat. Queaño told Naguiat that she did not receive the proceeds of the loan, adding that the checks were retained by Ruebenfeldt, who purportedly was Naguiat's agent. Naguiat applied for the extrajudicial foreclosure of the mortgage. Queaño then filed for annulment of the mortgage deed.

Whether or not agency by estoppel between petitioner and Ruebenfeldt.

The Court noted that there was ample evidence of an agency relationship between Naguiat and Ruebenfeldt. It was evident that Naguiat instructed Ruebenfeldt to withhold from Queaño the checks she issued or indorsed to Queaño, pending delivery by the latter of additional collateral. Ruebenfeldt also accompanied Queaño in her negotiation with Naguiat.

In the case, the Court stated that there is an existence of an "agency by estoppels citing Article 1873 of the Civil Code. As a consequence of the interaction between Naguiat and Ruebenfeldt, Queaño got the impression that Ruebenfeldt was the agent of Naguiat, but Naguiat did nothing to correct Queaño's impression. It was stated by the Court that one who clothes another with apparent authority as his agent, and holds him out to the public as such, cannot be permitted to deny the authority of such person to act as his agent, to the prejudice of innocent third parties dealing with such person in good faith, and in the honest belief that he is what he appears to be.

G. POWER TO SELL v. POWER TO MORTGAGE

Art. 1879. A special power to sell excludes the power to mortgage; and a special power to mortgage does not include the power to sell. (n)

Bicol Savings Loan vs CA
The sale proscribed by a special power to mortgage under Article 1879 is a voluntary and independent contract, and not an auction sale resulting from extrajudicial foreclosure, which is precipitated by the default of a mortgagor. Absent that default, no foreclosure results. The stipulation granting an authority to extrajudicially foreclose a mortgage is an ancillary stipulation supported by the same cause or consideration for the mortgage and forms an essential or inseparable part of that bilateral agreement.

The power to foreclose is not an ordinary agency that contemplates exclusively the representation of the principal by the agent but is primarily an authority conferred upon the mortgagee for the latter's own protection. That power survives the death of the mortgagor (Perez vs. PNB, supra). In fact, the right of the mortgagee bank to extrajudicially foreclose the mortgage after the death of the mortgagor Juan de Jesus, acting through his attorney-in-fact, Jose de Jesus, did not depend on the authorization in the deed of mortgage executed by the latter. That right existed independently of said stipulation and is clearly recognized in Section 7, Rule 86 of the Rules of Court.

In other words, the power to mortgage does not include the power to obtain loans, especially when the grantors allege that they had no benefit at all from the proceeds of the loan taken by the agent in his own name from the bank. "It is not unusual in family and business circles that one would allow his property or an undivided share in real estate to be mortgaged by another as security, either as an accommodation or for valuable consideration, but the grant of such authority does not extend to assuming personal liability, much less solidary liability, for any loan secured by the grantee in the absence of express authority so given by the grantor." *Philippine National Bank v. Sta. Maria, 29 SCRA 303, 310 (1969).*

IV. PARTIES TO A CONTRACT OF AGENCY; CAPACITY

Art. 1881. 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. (1714a)

Under Article 1881 of the Civil Code, the agent must act within the scope of his authority to bind his principal. So long as the agent has authority, express or implied, the principal is bound by the acts of the agent on his behalf, whether or not the third person dealing with the agent believes that the agent has actual authority. Thus, all signatories in a contract should be clothed with authority to bind the parties they represent. *Sargasso Construction & Development Corporation/Pick & Shovel, Inc.,/Atlantic Erectors, Inc. (Joint Venture) v. Philippine Ports Authority, 623 SCRA 260 (2010).*

Art. 1882. The limits of the agent's authority shall not be considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him. (1715)

Article 1882 of the Civil Code provides that the limits of an agent's authority shall not be considered

exceeded should it have been performed in a manner advantageous to the principal than that specified by him. *Olaguer v. Purugganan, Jr.*, *515 SCRA 460 (2007).*

The admissions obtained by the agent from the adverse party prior to the formal amendment of the complaint that included the principal as a party to the suit, can be availed of by the principal "since an agent may do such acts as may be conducive to the accomplishment of the purpose of the agency, admissions secured by the agent within the scope of the agency ought to favor the principal. This has to be the rule, for the act or declarations of an agent of the party within the scope of the agency and during its existence are considered and treated in turn as declarations, acts and representations of his principal and may be given in evidence against such party" *Bay View Hotel v. Ker & Co.*, *116 SCRA 327 (1982).*

Art. 1883. If an agent acts in his own name, the principal has no right of action against the persons with whom the agent has contracted; neither have such persons against the principal.

Even when the agent has a special power of attorney to mortgage the property of the principal, when such agent nevertheless executed the real estate mortgage in his own name, then it is not valid and binding on the principal pursuant to the provisions of Article 1883 of the Civil Code. *Philippine Sugar Estates Dev. Corp. v. Poizat*, 48 Phil. 536 (1925); *Rural Bank of Bombon v. Court of Appeals*, 212 SCRA 25 (1992).

Under Article 1883 of the Civil Code, if an agent acts in his own name, the principal has no right of action against the persons with whom the agent has contracted; neither have such persons against the principal. In such case the agent is the one directly bound in favor of the person with whom he has contracted, as if the transaction were his own, except when the contract involves things belonging to the principal. Since the principals have caused their agent to enter into a charter party in his own name and without disclosing that he acts for any principal, then such principals have no standing to sue upon any issue or cause of action arising from said charter party. *Marimperio Compania Naviera, S.A. v. Court of Appeals*, *156 SCRA 368 (1987).*

Art. 1892. The agent may appoint a substitute if the principal has not prohibited him from doing so; but he shall be responsible for the acts of the substitute:

(1) When he was not given the power to appoint one;

(2) When he was given such power, but without designating the person, and the person appointed was notoriously incompetent or insolvent.

All acts of the substitute appointed against the prohibition of the principal shall be void. (1721)

Under the terms of Art. 1892, when a special power of attorney to sell a piece of land does not contain a clear prohibition against the agent in appointing a

substitute, the appointment by the agent of a substitute to execute the contract is within the limits of the authority given by the principle, although the agent then would have to be responsible for the acts of the sub-agent. *Escueta v. Lim, 512 SCRA 411 (2007).*

Rule Opposite Under the Old Civil Code: An agent cannot delegate his powers under an power of attorney to a sub-agent in view of the legal principle "*delegata potestas delegare non potest*" (a delegated power cannot be delegated), inasmuch as there is nothing in the records to show that he has been expressly authorized to do so." *National Bank v. Agudelo, 58 Phil 655, 661 (1933).*

Art. 1327. The following cannot give consent to a contract:

(1) Unemancipated minors;

(2) Insane or demented persons, and deaf-mutes who do not know how to write. (1263a)

Art. 1329. The incapacity declared in Article 1327 is subject to the modifications determined by law, and is understood to be without prejudice to special disqualifications established in the laws. (1264)

Gold Star Mining vs Lim-Jimena
We are of the same opinion with the Court of Appeals that respondents Jimenas have a cause of action against petitioner corporation and that the latter's joinder as one of the defendants before the trial court is fitting and proper. Said the Court of Appeals, and we adopt the same:

"From another standpoint, equally valid and acceptable, it can be said that Lincallo, in transferring the mining claims to Gold Star (without disclosing that Jimena was a co-owner although Gold Star had knowledge of this fact as shown by the proofs heretofore mentioned) acted as Jimena's agent with respect to Jimena's share of the claims,

"Under such conditions, Jimena has an action against Gold Star, pursuant to Article 1883, New Civil Code, which provides that the principal may sue the person with whom the agent dealt with in his (agent's) own name, when the transaction 'involves things belonging to the principal."

Santos vs Buenconsejo
The said special power of attorney authorizing him to act on behalf of the children of Anatolio Buenconsejo could not have possibly vested in him any property right in his own name; the children of Anatolio Buenconsejo had no authority to execute said power of attorney, because their father is still alive and, in fact, he and his wife opposed the petition of Santos.

"A special power of attorney authorizing a person to act on behalf of the children of another cannot vest in the said attorney any property right in his own name. The children have no authority to execute a power of attorney for their father who is still alive."

V. RIGHTS, OBLIGATIONS, and LIABILITIES OF AGENT

A. RIGHTS

Art. 1875. Agency is presumed to be for compensation, unless there is proof to the contrary. (n)

> Presiding from the principle that the terms of the contract of agency constituted the law between the principal and the agent, then the mere fact that "other agents" intervened in the consummation of the sale and were paid their respective commissions could not vary the terms of the contract of agency with the plaintiff of a 5% commission based on the selling price. *De Castro v. Court of Appeals, 384 SCRA 607 (2002).*
>
> Agency is presumed to be for compensation. Unless the contrary intent is shown, a person who acts as an agent does so with the expectation of payment according to the agreement and to the services rendered or results effected… When an agent performs services for a principal at the latter's request, the law will normally imply a promise on the part of the principal to pay for the reasonable worth of those services. The intent of a principal to compensate the agent for services performed on behalf of the former will be inferred from the principal's request for the agents. *Urban Bank, Inc. v. Peña [G.R. No. 145817, 19 October 19, 2011.*

Art. 1890. If the agent has been empowered to borrow money, he may himself be the lender at the current rate of interest. If he has been authorized to lend money at interest, he cannot borrow it without the consent of the principal. (n)

Art. 1892. The agent may appoint a substitute if the principal has not prohibited him from doing so; but he shall be responsible for the acts of the substitute:

(1) When he was not given the power to appoint one;

(2) When he was given such power, but without designating the person, and the person appointed was notoriously incompetent or insolvent.

All acts of the substitute appointed against the prohibition of the principal shall be void. (1721)

Art. 1893. In the cases mentioned in Nos. 1 and 2 of the preceding article, the principal may furthermore bring an action against the substitute with respect to the obligations which the latter has contracted under the substitution. (1722a)

> The principal is liable upon a sub-agency contract entered into by its selling agent in the name of the principal, where it appears that the general agent was clothed with such broad powers as to justify the interference that he was authorized to execute contracts of this kind, and it not appearing from the record what limitations, if any, were placed upon his powers to ace for his principal, and more so when the principal had previously acknowledged the transactions of the subagent. *Del Rosario v. La Badenia*, *33 Phil. 316 (1916).*

Art. 1909. The agent is responsible not only for fraud, but also for negligence, which shall be judged with more or less

rigor by the courts, according to whether the agency was or was not for a compensation. (1726)

The well-settled rule is that an agent is also responsible for any negligence in the performance of its function (Art. 1909) and is liable for the damages which the principal may suffer by reason of its negligent act. (Art. 1884). ✓*British Airways v. Court of Appeals*, 285 SCRA 450 (1998).

The Court brushed aside the contention that since it was merely acting as collecting bank, it was the drawee-bank that should be held liable for the loss of a depositor: "In stressing that it was acting only as a collecting agent for Golden Savings, Metrobank seems to be suggesting that as a mere agent it cannot be liable to the principal. This is not exactly true. On the contrary, Article 21909 of the Civil Code clearly provides that" the agent is responsible not only for fraud, but also for negligence. *Metrobank v. Court of Appeals, 194 SCRA 169 (1991).*

Art. 1912. The principal must advance to the agent, should the latter so request, the sums necessary for the execution of the agency.

Should the agent have advanced them, the principal must reimburse him therefor, even if the business or undertaking was not successful, provided the agent is free from all fault.

The reimbursement shall include interest on the sums advanced, from the day on which the advance was made. (1728)

Art. 1913. The principal must also indemnify the agent for all the damages which the execution of the agency may have caused the latter, without fault or negligence on his part. (1729)

Art. 1914. The agent may retain in pledge the things which are the object of the agency until the principal effects the reimbursement and pays the indemnity set forth in the two preceding articles. (1730)

Hahn vs CA
An agent receives a commission upon the successful conclusion of a sale. On the other hand, a broker earns his pay merely by bringing the buyer and the seller together, even if no sale is eventually made.

As to the service centers and showrooms which he said he had put up at his own expense, Hahn said that he had to follow BMW specifications as exclusive dealer of BMW in the Philippines. According to Hahn, BMW periodically inspected the service centers to see to it that BMW standards were maintained. Indeed, it would seem from BMW's letter to Hahn that it was for Hahn's alleged failure to maintain BMW standards that BMW was terminating Hahn's dealership.

The fact that Hahn invested his own money to put up these service centers and showrooms does not necessarily prove that he is not an agent of BMW. For as already noted, there are facts in the record which suggest that BMW exercised control over Hahn's activities as a dealer and made regular inspections of

Hahn's premises to enforce compliance with BMW standards and specifications.

In addition, BMW held out private respondent Hahn as its exclusive distributor in the Philippines, even as it announced in the Asian region that Hahn was the "official BMW agent" in the Philippines.

Prats vs CA

Prats was not the efficient procuring cause in bringing about the sale proceeding from the fact of expiration of his exclusive authority. But, the Court notes that Prats had Monthly taken steps to bring back together respondent Doronila and the SSS. Prats communicated with the Office of the Presidential Housing Commission on February 23, 1968 offering the Doronila property. Prats wrote a follow-up letter on April 1968 which was answered by the Commission with the suggestion that the property be offered directly to the SSS. Prats wrote toSSS on March 16, 1968, inviting Chairman Ramon Gaviola, Jr. to discuss the offer of the sale of the property in question to the SSS. On May 6, 1968, Prats made a formal written offer to the Social Security System to self the 300 hectare land of Doronila at the price of P6.00 per square meter. Doronila received on May 17, 1968 from the SSS Administrator a telegram that the SSS was considering the purchase of Doronilas property for its housing project. Prats and his witness Raagas testified that Prats had several dinner and lunch meetings with Doronila and/or his nephew, Atty. Manuel D. Asencio, regarding the progress of the negotiations with the SSS.

Even if Prats was not the procuring cause in bringing about the sale, the Court grants in equity the sum of One Hundred Thousand Pesos (P100,000.00) by way of compensation for his efforts and assistance in the transaction, which however was finalized and consummated after the expiration of his exclusive authority

Manotok Brothers vs CA

At first sight, it would seem that private respondent is not entitled to any commission as he was not successful in consummating the sale between the parties, for the sole reason that when the Deed of Sale was finally executed, his extended authority had already expired. By this alone, one might be misled to believe that a broker or agent is not entitled to any commission until he has successfully done the job given to him. But following the decision in Prats, Saligumba should be paid his commission, While in Prats vs. Court of Appeals, the agent was not even the efficient procuring cause in bringing about the sale, unlike in the case at bar, it was still held therein that the agent was entitled to compensation. In the case at bar, private respondent is the efficient procuring cause for without his efforts, the municipality would not have anything to pass and the Mayor would not have anything to approve.

B. OBLIGATIONS

Art. 1881. 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. (1714a)

Art. 1882. The limits of the agent's authority shall not be considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him. (1715)

Art. 1884. The agent is bound by his acceptance to carry out the agency, and is liable for the damages which, through his non-performance, the principal may suffer.

He must also finish the business already begun on the death of the principal, should delay entail any danger. (1718)

In construing the original version of Article 1884 (Article 1718 of the old Civil Code), the Supreme Court held that the burden is on the person who seeks to make an agent liable to show that the losses and damage caused were occasioned by the fault or negligence of the agent; mere allegation without substantiation is not enough to make the agent personally liable. *Heredia v. Salina*, *10 Phil 157 (1908).*

When the finance company executes a mortgage contract that contains a provision that in the event of accident or loss, it shall make a proper claim against the insurance company, was in effect an agency relation, and that under Article 1884, the finance company was bound by its acceptance to carry out the agency, and in spite of the instructions of the borrowers to make such claims instead insisted on having the vehicle repaired but eventually resulting in loss of the insurance coverage, the finance company had breached its duty of diligence, and must assume the damages suffered by the borrowers, and consequently can no longer collect on the balance of the mortgage loan secured thereby. *BA Finance v. Court of Appeals*, *201 SCRA 157 (1991).*

The well-settled rule is that an agent is also responsible for any negligence in the performance of its function (Art. 1909) and is liable for the damages which the principal may suffer by reason of its negligent act. (Art. 1884). *British Airways v. Court of Appeals*, *285 SCRA 450 (1998).*

Art. 1885. In case a person declines an agency, he is bound to observe the diligence of a good father of a family in the custody and preservation of the goods forwarded to him by the owner until the latter should appoint an agent or take charge of the goods. (n)

a. If Goods Are Forwarded to Him: Observe diligence of a good father of a family in custody and preservation of goods until new agent appointed

b. Compare with Art. 1929 – Obligation of an agent who withdraws form an agency – he must continue to act until principal takes necessary steps to meet situation

Art. 1886. Should there be a stipulation that the agent shall advance the necessary funds, he shall be bound to do so except when the principal is insolvent. (n)

No Obligation of Agent to Advance Funds:

It is Principal's obligation to advance the funds, but Principal to pay interest on advances made by Agent from day he advances the money (Art. 1912).

EXCEPT: (1) If Stipulated in the Agency Agreement

(2) Where principal is insolvent

Art. 1887. In the execution of the agency, the agent shall act in accordance with the instructions of the principal.

In default thereof, he shall do all that a good father of a family would do, as required by the nature of the business. (1719)

Art. 1888. An agent shall not carry out an agency if its execution would manifestly result in loss or damage to the principal. (n)

Obligation Not Carry Out Agency If Execution Would Manifestly Result in Loss or Damage to Principal (Art. 1888)

While it is true that an agent who acts for a revealed principal in the making of a contract does not become personally bound to the other party in the sense that an action can ordinarily be maintained upon such contract directly against the agent, yet that rule does not control when the agent cannot intercept and appropriate the thing which the principal is bound to deliver, and thereby make the performance of the principal impossible. The agent in any event must be precluded from doing any positive act that could prevent performance on the part of his principal, otherwise the agent becomes liable also on the contract. *National Bank v. Welsh Fairchild*, *44 Phil 780 (1923).*

Art. 1889. The agent shall be liable for damages if, there being a conflict between his interests and those of the principal, he should prefer his own. (n)

DUTY OF LOYALTY: Obligation in a Conflict of Interest Situation

(1) Agent shall be liable to the principal for damages sustained by the latter where in case of conflict of interest situation, and agent preferred his own interest.

(2) Agent prohibited from buying property entrusted to him for administration or sale without principal's consent (Art. 1491[2]).

An agent cannot represent both himself and his principal in a transaction involving the shifting to another person of the agent's liability for a debt to the principal. *Aboitiz v. De Silva*, 45 Phil 883 (1924).

Art. 1890. If the agent has been empowered to borrow money, he may himself be the lender at the current rate of interest. If he has been authorized to lend money at interest, he cannot borrow it without the consent of the principal. (n)

Art. 1891. Every agent is bound to render an account of his transactions and to deliver to the principal whatever he may have received by virtue of the agency, even though it may not be owing to the principal.

Every stipulation exempting the agent from the obligation to render an account shall be void. (1720a)

(1) Agent Must Render Account to Principal

An administrator of an estate was made liable under Article 1720 (now Art. 1891) for failure to render an account of his administration to the heirs, unless the heirs consented thereto or are estopped by having accepted the correctness of

his account previously rendered. *Ojinaga v. Estate of Perez*, *9 Phil 185 (1907).*

(2) Deliver to Principal Whatever Is Received by Virtue of Agency

The possession of an agent of the money or property of his principal is termed "juridical possession" which means a possession which gives the transferee a right over the thing which the transferee may set up even against the owner. *Chua-Burce v. Court of Appeals*, *331 SCRA 1 (2000).*

Consequently:

An insurance agent may be convicted of estafa for his failure to deliver sums of money paid to him as an insurance agent for the account of his employer. Where nothing to the contrary appears, the provisions of article 1720 of the Civil Code impose upon an agent the obligation to deliver to his principal all funds collected on his account. *U.S. v. Kiene*, 7 Phil 736 (1907)

A travelling sales agent who misappropriated or failed to return to his principal the proceeds of the things or goods he was commissioned or authorized to sell, is liable for estafa. *Guzman v. Court of Appeals*, 99 Phil. 703 (1956).

Whereas, a bank teller or cash custodian, being merely an employee of the bank, cannot be held liable for estafa, but rather for theft. *Chua-Burce v. Court of Appeals*, 331 SCRA 1 (2000).

(3) Obligation Arises and Becomes Demandable at Agency's End

(4) *Stipulation Exempting Agent from Obligation to Render an Accounting Is Void*

"When accounts of the agent to the principal are once approved by the principal, the latter has no right to ask afterwards for a revision of the same or for a detailed account of the business, unless he can show that there was fraud, deceit, error or mistake in the approval of the accounts—facts not proven in this case." *Guiterrez Hermanos v. Oria Hermanos*, 30 Phil. 491, 505 (1915), *quoting from Pastor v. Nicasio*, 6 Phil. 152 (1906).

Art. 1892. The agent may appoint a substitute if the principal has not prohibited him from doing so; but he shall be responsible for the acts of the substitute:

(1) When he was not given the power to appoint one;

(2) When he was given such power, but without designating the person, and the person appointed was notoriously incompetent or insolvent.

All acts of the substitute appointed against the prohibition of the principal shall be void. (1721)

Art. 1896. The agent owes interest on the sums he has applied to his own use from the day on which he did so, and on those which he still owes after the extinguishment of the agency. (1724a)

Liability of Agent for Interest

(1) Agent Is Liable for Interest:

(a) *On Sums He Applied to His Own Use (from the Time He Used Them)*

(b) *On Sums Owing the Principal (from the Time Agency Is Extinguished)*

As to the interest imposed in the judgment on the amounts received by the agent which were not turned over to the principal, "it is sufficient to cite article 1724 of the Civil Code, which provides that an agent shall be liable for interest upon any sums he may have applied to his own use, from the day on which he did so, and upon those which he still owes, after the expiration of the agency, from the time of his default." *Mendezonna v. Vda.* ***De Goitia*****,** ***54 Phil 557 (1930).***

Art. 1899. If a duly authorized agent acts in accordance with the orders of the principal, the latter cannot set up the ignorance of the agent as to circumstances whereof he himself was, or ought to have been, aware. (n)

(1) If agent followed instructions, principal cannot set up agent's ignorance or circumstance which principal was, or ought to have been, aware of.

Pursuant to the instructions of the principals, the agent purchased a piece of land in their names and in the sums given to him by the principal, and that after the fact of purchase the principals had ratified the transaction and even received profits arising from the investment in the land, but that eventually a defect in the title to the land arose, the said principals cannot recover their lost investment from the agent. "There is nothing in the record which would indicate that the defendant failed to exercise reasonable care and diligence in the performance of his duty as such agent, or that he undertook to guarantee the vendor's title to the land purchased by direction of the plaintiffs." *Nepomuceno v. Heredia*, *7 Phil 563, 566 (1907).*

When an agent in executing the orders and commissions of his principal carries out the instructions he has received from his principal, and does not appear to have exceeded his authority or to have acted with negligence, deceit or fraud, he cannot be held responsible for the failure of his principal to accomplish the object of the agency. Agents, although they act in representation of the principal, are not guarantors for the success of the business enterprise they are asked to manage. *Guiterrez Hermanos v. Oria Hermanos*, *30 Phil. 491 (1915).*

Art. 1900. So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent. (n)

Where the wife gave her husband a power of attorney "to loan and borrow money," and for such purpose to mortgage her property, and where the husband signed his wife's name to a note and gave a mortgage on her property to secure the note and the

amount of the loan was actually paid to her husband in money at the time the note and mortgage were executed, the transaction is binding upon the wife under her power of attorney, regardless of what the husband may ha e done with the money which he obtained on the loan. *Bank of P.I. v. De Coster*, *47 Phil 594 (1925).*

It is a settled rule that persons dealing with an assumed agent, whether the assumed agency be a general or special one are bound at their peril if they would hold the principal liable, to ascertain not only the fact of agency but also the nature and extent of authority, and in case either is controverted, the burden of proof is upon them to establish it. *Harry Keeler v. Rodriguez*, 4 Phil. 19). Hence, when the bank accepted a letter of guarantee signed by a mere credit administrator on behalf of the finance company, the burden was on the bank to satisfactorily prove that the credit administrator with whom they transacted acted within the authority given to him by his principal. *BA Finance v. Court of Appeals, 211 SCRA 112 (1992).*

As far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and his agent. ✓*Eugenio v. Court of Appeals*, *239 SCRA 207 (1994).*

When one knowingly deals with the sales representative of a car dealership company, one must realize that one is dealing with a mere agent, and it is incumbent upon such person to act with ordinary prudence and reasonable diligence to know the extent of the sales representative's authority as an agent in respect of contracts to sell the vehicles. A person dealing with an agent is put upon inquiry and must discover upon his peril the authority of the agent. [Normal business practice does not warrant a sales representative to have power to enter into a valid and binding contract of sale for the company.] *Toyota Shaw, Inc. v. CA*, *244 SCRA 320 (1995).*

Art. 1903. The commission agent shall be responsible for the goods received by him in the terms and conditions and as described in the consignment, unless upon receiving them he should make a written statement of the damage and deterioration suffered by the same. (n)

EXCEPT: When He Makes a Written Statement of Damage and Deterioration

Art. 1904. The commission agent who handles goods of the same kind and mark, which belong to different owners, shall distinguish them by countermarks, and designate the merchandise respectively belonging to each principal. (n)

(1) Distinguish Them by Countermarks If Goods of Same Kind and Mark

PURPOSE: To Prevent Conflict of Interest Among Owners

Art. 1905. The commission agent cannot, without the express or implied consent of the principal, sell on credit. Should he do so, the principal may demand from him

payment in cash, but the commission agent shall be entitled to any interest or benefit, which may result from such sale. (n)

He Cannot Sell on Credit Without Principal's Consent (Art. 1905)

(1) OTHERWISE: Considered as Cash Sales

Whether viewed as an agency to sell or as a contract of sale, the liability of Green Valley is indubitable. Adopting Green Valley's theory that the contract is an agency to sell, it is liable because it sold on credit without authority from its principal." Under Article 1905, it is provided that the commission agent cannot, without the express or implied consent of the principal, sell on credit, and should it do so the principal may demand from him payment in cash. *Green Valley v. IAC, 133 SCRA 697 (1984).*

Art. 1906. Should the commission agent, with authority of the principal, sell on credit, he shall so inform the principal, with a statement of the names of the buyers. Should he fail to do so, the sale shall be deemed to have been made for cash insofar as the principal is concerned. (n)

(1) Inform the Principal with Statement of Buyer's Names;

(2) Effect of Non-Compliance – Considered Sash Sale

Art. 1907. Should the commission agent receive on a sale, in addition to the ordinary commission, another called a guarantee commission, he shall bear the risk of collection and shall pay the principal the proceeds of the sale on the same terms agreed upon with the purchaser. (n)

Effect When Agent Receives Guaranty or *Del Credere* Commissions

(1) He Shall Sear the Risk of Collection

(2) He Shall Pay Principal the Proceeds of Sale on Same Terms Agreed with Purchaser

Art. 1908. The commission agent who does not collect the credits of his principal at the time when they become due and demandable shall be liable for damages, unless he proves that he exercised due diligence for that purpose. (n)

Liability for Failure to Collect Principal's Credit Due

(1) Liability for Damages

(2) Unless Due Diligence Proven

Art. 1909. The agent is responsible not only for fraud, but also for negligence, which shall be judged with more or less rigor by the courts, according to whether the agency was or was not for a compensation. (1726)

Art. 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

(2) Agents, the property whose administration or sale may have been entrusted to them, unless the consent of the principal has been given;

Art. 1916. When two persons contract with regard to the same thing, one of them with the agent and the other with the principal, and the two contracts are incompatible with each other, that of prior date shall be preferred, without prejudice to the provisions of Article 1544. (n)

Rights of Persons Who Contracted for Same Thing, One With Principal and the Other With Agent

a. That of Prior Date Is Preferred

b. If a Double Sale Situation – Art. 1544 Governs

Art. 1917. In the case referred to in the preceding article, if the agent has acted in good faith, the principal shall be liable in damages to the third person whose contract must be rejected. If the agent acted in bad faith, he alone shall be responsible. (n)

Liability of Principal and Agent to Third Persons Whose Contract Must Be Rejected Pursuant to Art. 1916 (Art. 1917)

a. If Agent in Good Faith – Principal Liable

b. If Agent in Bad Faith – Agent alone Liable

Art. 1918. The principal is not liable for the expenses incurred by the agent in the following cases:

(1) If the agent acted in contravention of the principal's instructions, unless the latter should wish to avail himself of the benefits derived from the contract;

(2) When the expenses were due to the fault of the agent;

(3) When the agent incurred them with knowledge that an unfavorable result would ensue, if the principal was not aware thereof;

(4) When it was stipulated that the expenses would be borne by the agent, or that the latter would be allowed only a certain sum. (n)

According to Hahn, BMW periodically inspected the service centers to see to it that BMW standards were maintained. Indeed, it would seem from BMW's letter to Hahn that it was for Hahn's alleged failure to maintain BMW standards that BMW was terminating Hahn's dealership. The fact that Hahn invested his own money to put up these service centers and showrooms does not necessarily prove that he is not an agent of BMW. For as already noted, there are facts in the record which suggest that BMW exercised control over Hahn's activities as a dealer and made regular inspections of Hahn's premises to enforce compliance with BMW standards and specifications. *Hahn v. Court of Appeals*, *266 SCRA 537 (1997).*

Art. 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages. (1101)

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. (n)

When the Agency Continues Despite Death of Principal

(1) If It Was Constituted for Common Interest of Principal and Agent; or

(2) In Favor of Third Person Who Accepted Stipulation in His Favor.

An example of an agency coupled with interest is when a power of attorney is constituted in a contract of real estate mortgage pursuant to the requirement of Act No. 3135, which would empower the mortgagee upon the default of the mortgagor to payment the principal obligation, to effect the sale of the mortgage property through extrajudicial foreclosure. "The argument that foreclosure by the Bank under its power of sale is barred upon death of the debtor, because agency is extinguished by the death of the principal, under . . . Article 1919 of the Civil Code neglects to take into account that the power to foreclose is not an ordinary agency that contemplates exclusively the representation of the principal by the agent but is primarily an authority conferred upon the mortgagee for the latter's own protection. It is, in fact, an ancillary stipulation supported by the same *causa* or consideration for the mortgage and forms an essential and inseparable part of that bilateral agreement. *Perez v. PNB, 17 SCRA 833 (1966).*

British Airways vs. Court of Appeals
An agent is also responsible for any negligence in the performance of its function and is liable for damages which the principal may suffer by reason of its negligent act.— Parenthetically, the Court of Appeals should have been cognizant of the well-settled rule that an agent is also responsible for any negligence in the performance of its function and is liable for damages which the principal may suffer by reason of its negligent act. Hence, the Court of Appeals erred when it opined that BA, being the principal, had no cause of action against PAL, its agent or subcontractor.

Also, it is worth mentioning that both BA and PAL are members of the International Air Transport Association (IATA), wherein member airlines are regarded as agents of each other in the issuance of the tickets and other matters pertaining to their relationship. Therefore, in the instant case, the contractual relationship between BA and PAL is one of agency, the former being the principal, since it was the one which issued the confirmed ticket, and the latter the agent.

Woodchild vs Roxas
Court ruled that the agent was not specifically authorized to grant a right of way or to agree to sell to a portion thereof. It found that the authority of the agent, under the resolution, did not include the authority to sell a portion of the adjacent lot, or to create or convey real rights thereon.
Powers of attorney are generally construed strictly and courts will not infer or presume broad powers from deeds which do not sufficiently include property or subject under which the agent is to deal. The general rule is that the power of attorney must be pursued within legal structures, and the agent can neither go beyond it; nor beside it. The act done must be legally identical with that authorized to be done.
This case demonstrates a strict application of the rule that the agent must act within the scope of his authority

Domingo vs. Domingo

Articles 1891 and 1909 of the Civil Code demand the utmost good faith, fidelity, honesty, candor and fairness on the part of the agent to his principal. The agent has an absolute obligation to make a full disclosure or complete account to his principal of all his transactions and other material facts relevant to the agency, so much so that the law as amended does not countenance any stipulation exempting the agent from such an obligation and considers such an exemption as void.

An agent who takes a secret profit in the nature of a bonus, gratuity or personal benefit from the vendee, without revealing the same to bis principal is guilty of a breach of his loyalty to the latter and forfeits his right to collect the commission that may be due him, even if the principal does not suffer any injury by reason of such breach of fidelity, or that he obtained better results or that the agency is a gratuitous one, or that usage or custom allows it; because the rule is to prevent the possibility of any wrong, not to remedy or repair an actual damage.

The duty embodied in Article 1891 of the Civil Code does not apply if the agent or broker acted only as a middleman with the task of merely bringing together the vendor and vendee, who themselves thereafter will negotiate on the terms and conditions of the transaction.

Ramos vs. Caoibes

Where an agent makes use of his power of attorney after the death of his principal, the agent has the obligation to deliver the amount collected by him by virtue of said power to the administratrix of the estate of his principal.

Olaguer vs. Purugganan, Jr.

It is a general rule that a power of attorney must be strictly construed; the instrument will be held to grant only those powers that are specified, and the agent may neither go beyond nor deviate from the power of attorney.—Petitioner's arguments are unpersuasive. It is a general rule that a power of attorney must be strictly construed; the instrument will be held to grant only those powers that are specified, and the agent may neither go beyond nor deviate from the power of attorney. However, the rule is not absolute and should not be applied to the extent of destroying the very purpose of the power. If the language will permit, the construction that should be adopted is that which will carry out instead of defeat the purpose of the appointment. Clauses in a power of attorney that are repugnant to each other should be reconciled so as to give effect to the instrument in accordance with its general intent or predominant purpose. Furthermore, the instrument should always be deemed to give such powers as essential or usual in effectuating the express powers.

Article 1882 of the Civil Code provides that the limits of an agent's authority shall not be considered exceeded should it have been performed in a manner advantageous to the principal than that specified by him.—Article 1882 of the Civil Code provides that the limits of an agent's authority shall not be considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him.

The prohibition against agents purchasing property in their hands for sale or management is, however, clearly, not absolute.—It is, indeed, a familiar and universally recognized doctrine that a person who undertakes to act as agent for another cannot be permitted to deal in the agency matter on his own account and for his own benefit without the consent of his principal, freely given, with full knowledge of every detail known

to the agent which might affect the transaction. The prohibition against agents purchasing property in their hands for sale or management is, however, clearly, not absolute. It does not apply where the principal consents to the sale of the property in the hands of the agent or administrator.

C. LIABILITIES

Art. 1881. 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. (1714a)

Art. 1883. If an agent acts in his own name, the principal has no right of action against the persons with whom the agent has contracted; neither have such persons against the principal.

In such case the agent is the one directly bound in favor of the person with whom he has contracted, as if the transaction were his own, except when the contract involves things belonging to the principal.

The provisions of this article shall be understood to be without prejudice to the actions between the principal and agent. (1717)

Art. 1894. The responsibility of two or more agents, even though they have been appointed simultaneously, is not solidary, if solidarity has not been expressly stipulated. (1723)

Rule on Liability When Two or More Agents Appointed by the Same Principal

a. Responsibility of Two or More Agents Not Solidary

Art. 1895. If solidarity has been agreed upon, each of the agents is responsible for the non-fulfillment of agency, and for the fault or negligence of his fellows agents, except in the latter case when the fellow agents acted beyond the scope of their authority. (n)

b. Where Two or More Agents Agree to Be Solidarily Bound

Art. 1897. The agent who acts as such is not personally liable to the party with whom he contracts, unless he expressly binds himself or exceeds the limits of his authority without giving such party sufficient notice of his powers. (1725)

Article 1897 reinforces the familiar doctrine that an agent, who acts as such, is not personally liable to the party with whom he contracts. The same provision, however, presents two instances when an agent becomes personally liable to a third person. The first is when he expressly binds himself to the obligation and the second is when he exceeds his authority. In the last instance, the agent can be held liable if he does not give the third party sufficient notice of his powers. *Eurotech Industrial Technologies, Inc. v. Cuizon, 521 SCRA 584 (2007).*

Rule on Liability to Third Parties: Agent Not Bound to Third Party

The settlement and adjustment agent in the Philippines of an insurance company in New York is no different from any other agent from the point of view of his responsibility: whenever he adjusts or settles a claim,

he does it in behalf of his principal, and his action is binding not upon himself but upon his principal. When the agent settles and adjust claims in behalf of the principal, the agent does not assume any personal liability, and he cannot be sued on his own right; the recourse of the insured is to press his claim against the principal. *Salonga v. Warner Barnes*, *88 Phil 125 (1951).*

Under Article 1897, when the agent expressly binds himself to the contract entered into on behalf of the principal, then he become personally bound thereto to the same extent as the principle. But the doctrine is not applicable *vice–versa*, since everything agreed upon by the principal to be binding on himself is not legally binding personally on the agent. Thus when the previous agent of the union bound itself personally liable on the contracts of the union, the new agent is need deemed bound by the assumption undertaken by the original agent. *Benguet v. BCI Employees*, *23 SCRA 465 (1968).*

Art. 1898. If the agent contracts in the name of the principal, exceeding the scope of his authority, and the principal does not ratify the contract, it shall be void if the party with whom the agent contracted is aware of the limits of the powers granted by the principal. In this case, however, the agent is liable if he undertook to secure the principal's ratification. (n)

Under Article 1898 of the New Civil Code, the acts of an agent beyond the scope of his authority do not bind the principal, unless the latter ratifies the same expressly or impliedly. Furthermore, when the third person . . . knows that the agent was acting beyond his power or authority, the principal cannot be held liable for the acts of the agent. If the said third person is aware of the limits of the authority, he is to blame, and is not entitled to recover damages from the agent, unless the latter undertook to secure the principal's ratification. =

Art. 1899. If a duly authorized agent acts in accordance with the orders of the principal, the latter cannot set up the ignorance of the agent as to circumstances whereof he himself was, or ought to have been, aware. (n)

Art. 1900. So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent. (n)

Art. 1902. A third person with whom the agent wishes to contract on behalf of the principal may require the presentation of the power of attorney, or the instructions as regards the agency. Private or secret orders and instructions of the principal do not prejudice third persons who have relied upon the power of attorney or instructions shown them. (n)

Private or Secret Orders of Principal Do Not Prejudice Third Persons Who Relied Upon Agent's Power of Attorney or Principal's Instruction

In an expropriation proceeding, the State cannot raise the alleged lack of authority of the counsel of the owner to bind his client in a compromise agreement

because such lack of authority may be questioned only by the principal or client. [Since it is within the right or prerogative of the principal to ratify even the unauthorized acts of the agent]. *Commissioner of Public Highways v. San Diego, 31 SCRA 617 (1970).*

Art. 1903. The commission agent shall be responsible for the goods received by him in the terms and conditions and as described in the consignment, unless upon receiving them he should make a written statement of the damage and deterioration suffered by the same. (n)

Art. 1904. The commission agent who handles goods of the same kind and mark, which belong to different owners, shall distinguish them by countermarks, and designate the merchandise respectively belonging to each principal. (n)

Art. 1905. The commission agent cannot, without the express or implied consent of the principal, sell on credit. Should he do so, the principal may demand from him payment in cash, but the commission agent shall be entitled to any interest or benefit, which may result from such sale. (n)

Art. 1906. Should the commission agent, with authority of the principal, sell on credit, he shall so inform the principal, with a statement of the names of the buyers. Should he fail to do so, the sale shall be deemed to have been made for cash insofar as the principal is concerned. (n)

Art. 1907. Should the commission agent receive on a sale, in addition to the ordinary commission, another called a guarantee commission, he shall bear the risk of collection and shall pay the principal the proceeds of the sale on the same terms agreed upon with the purchaser. (n)

Art. 1908. The commission agent who does not collect the credits of his principal at the time when they become due and demandable shall be liable for damages, unless he proves that he exercised due diligence for that purpose. (n)

Art. 1910. The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

When Done Outside of Agent's Scope of Authority: Principal Not Bound

Where the memorial park company has authorized its agent to solicit and remit offers to purchase internment spaces obtained on forms provided by the company, then the terms of the offer to purchase, therefore, are contained in such forms and, when signed by the buyer and an authorized officer of the company, becomes binding on both the company and said buyer. And the fact that the buyer and the agent had an agreement different from that contained in the forms accepted does not bind the company, since the same were made obviously outside the agent's authority. When the power of the agent to sell are governed by the written form, it is beyond the authority of the agent as a fact that is deemed known and accepted by the third person, to offer terms and conditions outside of those provided in

writing. *Manila Memorial Park Cemetery, Inc. v. Linsangan*, *443 SCRA 377 (2004).*

Art. 1317. 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.

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;

National Power Corp. vs. National Merchandising Corp.
National Merchandising Corporation (NAMERCO) as agent of International Commodities Corporation (ICC), entered into a contract of purchase with National Power Corporation (NAPOCOR) for 4000 long tons of crude sulfur. The supplier was not able to deliver sulfur due to inability to secure shipping space. ICC in its cable to NAMERCO stated that they were having difficulty in booking shipping space and advised NAMERCO that if they want to enter into contract NAMERCO will assume sole responsibility for the shipment. Government Corporate Counsel rescinded the contract and demanded payment from NAMERCO for liquidated damages. NAPOCOR sued the ICC and NAMERCO for recovery of liquidated damages.

Whether NAMERCO is liable?

Yes, NAMERCO is liable for damages under article 1897 of the Civil Code the agent who exceeds the limits of his authority without giving the party with whom he contracts sufficient notice of his powers is personally liable to such party. NAMERCO never disclosed to the NAPOCOR the cabled or written instructions of its principal. For that reason and because NAMERCO exceeded the limits of its authority, it virtually acted in its own name and not as agent and it is, therefore, bound by the contract of sale which, however, is not enforceable against its principal.

Phil Products Co, vs. Primateria
In 1951, Primateria Zurich, through Baylin, entered into an agreement with plaintiff Philippine Products Company, whereby the latter undertook to buy copra in the Philippines for the account of Primateria Zurich. The contract was extended up to 1953. Philippine Products Company was shipped to foreign countries as per instructions of Primateria Zurich thru Primateria Philippines with Baylin and Crame as officers of the corporation. The CFI ruled that Primateria Zurich is liable to the plaintiff for the sums of P31,009.71. The CFI ruled that Primateria Zurich is liable to the plaintiff for the sums of P31,009.71 and absolved Primateria (Phil.), lnc., Baylin, and Crame from any and all liability. Philippine Products Company appealed stating that according to Art. 1897 of the Civil Code, agents of Primateria Zurich are liable.

Whether the agents of Primateria Zurich are liable together with principal?

No, Art. 1897 states that "The agent who acts as such is not personally liable to the party with whom he contracts, unless he expressly binds himself or exceeds the limits of his authority without giving such party sufficient notice of his powers." The article does not hold that in cases of excess of authority, both the agent and the principal are liable to the other contracting party. There is no proof that, as agents, they exceeded the limits of their authority, In fact, the principal—Primateria Zurich—who should be the one to raise the point, never raised it, denied its liability on the ground of excess of authority.

Siredy Enterprises vs. Court of Appeals
Yanga, president of Siredy, executed a letter of authority in favor of Santos allowing the latter to enter into contracts to build housing units. Santos representing Siredy entered into a deed of agreement with De Guzman for the construction of residential units. De Guzman failed to collect the balance from the Siredy and thus filed an action against them. Siredy contends that they did not authorize Santos to enter in to a contract for the construction of housing units.

Whether Siredy Enterprises is liable?

Yes, the letter of authority of Yanga to Santos clearly provides that Santos is authorized to enter into contracts for the construction of housing units. Santos acted within the scope of his authority. Article. 1900 provides that "So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent".

EUROTECH VS. CUISON
Article 1897 reinforces the familiar doctrine that an agent, who acts as such, is not personally liable to the party with whom he contracts. The same provision, however, presents two instances when an agent becomes personally liable to a third person. The first is when he expressly binds himself to the obligation and the second is when he exceeds his authority. In the last instance, the agent can be held liable if he does not give the third party sufficient notice of his powers.

The Court ruled that the agent in this case acted within the scope of his authorit, which made Article 1897 inapplicable. In addition, the Court took note of the fact that the third party is seeking to recover both from principal and agent which is not contemplated under the article. To reiterate, the first part of Article 1897 declares that the principal is liable in cases when the agent acted within the bounds of his authority. Under this, the agent is completely absolved of any liability. The second part of the said provision presents the situations when the agent himself becomes liable to a third party when he expressly binds himself or he exceeds the limits of his authority without giving notice of his powers to the third person. However, it must be pointed out that in case of excess of authority by the agent, like what petitioner claims exists here, the law does not say that a third person can recover from both the principal and the agent.

VI. OBLIGATIONS AND LIABILITIES OF PRINCIPAL

A. OBLIGATIONS

Art. 1868. 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. (1709a)

Art. 1875. Agency is presumed to be for a compensation, unless there is proof to the contrary. (n)

Art. 1881. 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. (1714a)

Art. 1882. The limits of the agent's authority shall not be considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him. (1715)

Art. 1883. If an agent acts in his own name, the principal has no right of action against the persons with whom the agent has contracted; neither have such persons against the principal.

Art. 1897. The agent who acts as such is not personally liable to the party with whom he contracts, unless he expressly binds himself or exceeds the limits of his authority without giving such party sufficient notice of his powers. (1725)

Art. 1900. So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent. (n)

Art. 1901. A third person cannot set up the fact that the agent has exceeded his powers, if the principal has ratified, or has signified his willingness to ratify the agent's acts. (n)

Third Person Cannot Set-up Facts of Agent's Exceeding Authority Where Principal Ratified or Signified Willingness to Ratify Agent's Acts (Art. 1901)

(1) Principal Should Be the One to Question Agent's Lack or Excess of Authority

(2) Presentation of Power of Attorney (Must) Be Required by Third Party (Art. 1902)

(3) Private or Secret Orders of Principal Do Not Prejudice Third Persons Who Relied Upon Agent's Power of Attorney or Principal's Instruction (Art. 1902)

In an expropriation proceeding, the State cannot raise the alleged lack of authority of the counsel of the owner to bind his client in a compromise agreement because such lack of authority may be questioned only by the principal or client. [Since it is within the right or prerogative of the principal to ratify even the unauthorized acts of the agent]. *Commissioner of Public Highways v. San Diego, 31 SCRA 617 (1970).*

Art. 1910. The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

As for any obligation wherein the agent has exceeded his power, the principal is not bound except when he ratifies it expressly or tacitly. (1727)

Art. 1911. Even when the agent has exceeded his authority, the principal is solidarily liable with the agent if the former allowed the latter to act as though he had full powers. (n)

Where Agent Acts in Excess of Authority, Where the Principal Allowed Agent to Act as Though Agent Had Full Powers

(a) Exception to the Rule that Obligations Are Presumed to Be Joint

(b) Doctrine of Apparent Authority

The doctrine of apparent authority focuses on two factors, first the principal's manifestations of the existence of agency which need not be expressed, but may be general and implied, and second is the reliance of third persons upon the conduct of the principal or agent. Under the doctrine of apparent authority, the question in every case is whether the principal has by his voluntary act placed the agent in such a situation that a person of ordinary prudence, conversant with business usages and the nature of the particular business, is justified in presuming that such agent has authority to perform the particular act in question. *Professional Services, Inc. v. Court of Appeals, 544 SCRA 170 (2008); 611 SCRA 282 (2010).*

Art. 1912. The principal must advance to the agent, should the latter so request, the sums necessary for the execution of the agency.

Should the agent have advanced them, the principal must reimburse him therefor, even if the business or undertaking was not successful, provided the agent is free from all fault.

The reimbursement shall include interest on the sums advanced, from the day on which the advance was made. (1728)

Art. 1913. The principal must also indemnify the agent for all the damages which the execution of the agency may have caused the latter, without fault or negligence on his part. (1729)

Art. 1915. If two or more persons have appointed an agent for a common transaction or undertaking, they shall be solidarily liable to the agent for all the consequences of the agency. (1731)

Obligation of Two or More Principals to Agent Appointed for Common Transactions – Solidary (Art. 1915)

a. Obligation of the Principals Is Solidary Because of Their Common Interest

When the law expressly provides for solidarity of the obligation, as in the liability of co-principals in a contract of agency, each obligor may be compelled to pay the entire obligation. The agent may recover the whole compensation from any one of the co-principals, as in this case. *De Castro v. Court of Appeals*, *384 SCRA 607 (2002).*

Art. 1916. When two persons contract with regard to the same thing, one of them with the agent and the other with the principal, and the two contracts are incompatible with each other, that of prior date shall be preferred, without prejudice to the provisions of Article 1544. (n)

Art. 1917. In the case referred to in the preceding article, if the agent has acted in good faith, the principal shall be liable in damages to the third person whose contract must be rejected. If the agent acted in bad faith, he alone shall be responsible. (n)

Art. 1975. The depositary holding certificates, bonds, securities or instruments which earn interest shall be bound to collect the latter when it becomes due, and to take such

steps as may be necessary in order that the securities may preserve their value and the rights corresponding to them according to law.

Art. 1393. Ratification may be effected expressly or tacitly. It is understood that there is a tacit ratification if, with knowledge of the reason which renders the contract voidable and such reason having ceased, the person who has a right to invoke it should execute an act which necessarily implies an intention to waive his right. (1311a)

Art. 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy. (1255a)

CUISON vs. CA
As to the merits of the case, it is a well-established rule that one who clothes another with apparent authority as his agent and holds him out to the public as such cannot be permitted to deny the authority of such person to act as his agent, to the prejudice of innocent third parties dealing with such person in good faith and in the honest belief that he is what he appears to be.

Petitioner is now estopped from disclaiming liability for the transaction entered into by Tiu Huy Tiac on his behalf. It matters not whether the representations are intentional or merely negligent so long as innocent third persons relied upon such representations in good faith and for value.

BEDIA vs WHITE
Hontiveros itself has not repudiated Bedia's agency as it would have if she had really not signed in its name. In the answer it filed with Bedia, it did not deny the latter's allegation in Paragraph 4 thereof that she was only acting as its agent when she solicited White's participation. In fact, by filing the answer jointly with Bedia through their common counsel, Hontiveros affirmed .this allegation. If the plaintiffs had any doubt about the capacity in which Bedia was acting, what they should have done was verify the matter with Hontiveros. They did not. Instead, they simply accepted Bedia's representation that she was an agent of Hontiveros and dealt with her as such. Under Article 1910 of the Civil Code, "the principal must comply with all the obligations which the agent may have contracted within the scope of his authority." Hence, the private respondents cannot now hold Bedia liable for the acts performed by her for, and imputable to, Hontiveros as her principal.

Our conclusion is that since it has not been found that Bedia was acting beyond the scope of her authority when she entered into the Participation Contract on behalf of Hontiveros, it is the latter that should be held answerable for any obligation arising from that agreement. By moving to dismiss the complaint against Hontiveros, the plaintiffs virtually disarmed themselves and forfeited whatever claims they might have proved against the latter under the contract signed for it by Bedia. It should be obvious that having waived these claims against the principal, they cannot now assert them against the agent.

B. LIABILITIES

Art. 1833. Where the dissolution is caused by the act, death or insolvency of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or

(2) The dissolution being by the death or insolvency of a partner, the partner acting for the partnership had knowledge or notice of the death or insolvency.

Art. 1911. Even when the agent has exceeded his authority, the principal is solidarily liable with the agent if the former allowed the latter to act as though he had full powers. (n)

Art. 1915. If two or more persons have appointed an agent for a common transaction or undertaking, they shall be solidarily liable to the agent for all the consequences of the agency. (1731)

Constante de Castro vs CA
When the law expressly provides for solidarity of the obligation, as in the liability of co-principals in a contract of agency, each obligor may be compelled to pay the entire obligation.12 The agent may recover the whole compensation from any one of the co-principals. If there are two or more principals, each has the same obligation to compensate the agent for his services as they are held to be solidarily liable to the agent.

Syjuco vs Syjuco
Whenever an agent enters into a contract under his own name, the principal is not bound by what the agent does or contracts thereby not being liable. However, the exception to this general rule is when the thing being dealt with belongs to the principal. In this instance, the contract is deemed to have been entered by the principal and the third person. As a result of this, the principal assumes all rights, obligations and liabilities that arise from the contract made by the agent with third persons.

VII. THIRD PARTY DEALING WITH AGENT

Art. 1902. A third person with whom the agent wishes to contract on behalf of the principal may require the presentation of the power of attorney, or the instructions as regards the agency. Private or secret orders and instructions of the principal do not prejudice third persons who have relied upon the power of attorney or instructions shown them. (n)

Presentation of Power of Attorney (Must) Be Required by Third Party (Art. 1902)

Private or Secret Orders of Principal Do Not Prejudice Third Persons Who Relied Upon Agent's Power of Attorney or Principal's Instruction (Art. 1902)

In an expropriation proceeding, the State cannot raise the alleged lack of authority of the counsel of the owner to bind his client in a compromise agreement because such lack of authority may be questioned only by the principal or client. [Since it is within the right or prerogative of the principal to ratify even the unauthorized acts of the agent]. *Commissioner of Public Highways v. San Diego*, *31 SCRA 617 (1970).*

Keeler vs Rodriguez
Persons dealing with an assumed agent, whether the assumed agency be a general or special one, are bound at their peril, if they would hold the principal, to ascertain not only the fact of the agency but the nature and extent of the authority, and in case either is controverted, the burden of proof is upon them to establish it.

BA Finance vs CA
It is a settled rule that persons dealing with an assumed agent, whether the assumed agency be a general or special one are bound at their peril, if they would hold the principal liable, to ascertain not only the fact of agency but also the nature and extent of authority, and in case either is controverted, the burden of proof is upon them to establish it. Hence, the burden is on respondent bank to satisfactorily prove that the credit administrator with whom they transacted acted within the authority given to him by his principal, petitioner corporation.

Also, Guaranty is not presumed, it must be expressed and cannot be extended beyond its specified limits.

NAPOCOR vs National Merchandising
The rule that a person dealing with an agent must inquire into the limits of the agent's authority does not apply where the agent is being held directly responsible for taking chances in exceeding its authority meaning the agent is acting in his own name.

VIII. EXTINGUISHING AGENCY

Art. 1919. Agency is extinguished:

(1) By its revocation;

(2) By the withdrawal of the agent;

(3) By the death, civil interdiction, insanity or insolvency of the principal or of the agent;

(4) By the dissolution of the firm or corporation which entrusted or accepted the agency;

(5) By the accomplishment of the object or purpose of the agency;

(6) By the expiration of the period for which the agency was constituted.

A. IRREVOCABILITY

Art. 1927. An agency cannot be revoked if a bilateral contract depends upon it, or if it is the means of fulfilling an obligation already contracted, or if a partner is appointed manager of a partnership in the contract of partnership and his removal from the management is unjustifiable. (n)

(a) When a Bilateral Contract Depends on It

An exception to the revocability of a contract of agency is when it is coupled with interest, *i.e.*, if a bilateral contract depends upon the agency. The reason for its irrevocability is because the agency becomes part of another obligation or agreement. It is not solely the rights of the principal but also that of the agent and third persons which are affected. Hence, the law provides that in such cases, the agency cannot be revoked at the sole will of the principal. *Republic v. Evangelista*, *466 SCRA 544 (2005).*

Agency is extinguished by the death of the principal. The only exception where the agency shall remain in full force and effect even after the death of the principal is when 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. *Sasaba v. Vda. De Te, 594 SCRA 410 (2009).*

(b) When It Is the Means of Fulfilling an Obligation Already Contracted

Unlike simple grants of a power of attorney, the agency that we hereby declare to be compatible with the intent of the parties cannot be revoked at will. The reason is that it is one coupled with an interest, the agency having been created for the mutual interest of the agent and the principal. It appears that Lina Sevilla is a bona fide travel agent herself, and as such, she had acquired an interest in the business entrusted to her. Moreover, she had assumed a personal obligation for the operation thereof, holding herself solidarily liable for the payment of rentals. She continued the business, using her own name, after Tourist World had stopped further operations. Her interest, obviously, is not limited to the commissions she earned as a result of her business transactions, but one that extends to the very subject matter of the power of management delegated to her. It is an agency that cannot be revoked at the pleasure of the principal. Accordingly, the revocation complained of should entitle the petitioner. *Sevilla v. Court of Appeals, 160 SCRA 171 (1988).*

Agency Coupled with Interest: "In the insurance business in the Philippines, the most difficult and frustrating period is the solicitation and persuasion of the prospective clients to buy insurance policies. Normally, agents would encounter much embarrassment, difficulties, and oftentimes frustrations in the solicitation and procurement of the insurance policies. To sell policies, an agent exerts great effort, patience, perseverance, ingenuity, tact, imagination, time and money. . . Therefore, the respondents cannot state that the agency relationship between Valenzuela and Philamgen is not coupled with interest. "There may be cases in which an agent has been induced to assume a responsibility or incur a liability, in reliance upon the continuance of the authority under such circumstances that, if the authority be withdrawn, the agent will be exposed to personal loss or liability. . . . Furthermore, there is an exception to the principle that an agency is revocable at will and that is when the agency has been given not only for the interest of the principal but for the interest of third persons or for the mutual interest of the principal and the agent. In these cases, it is evident that the agency ceases to be freely revocable by the sole will of the principal. ✓*Valenzuela v. Court of Appeals,* 191 SCRA 1 (1990).

(c) Unjustified Removal of Managing Partner – Revocation Needs the Vote of Controlling Partners (Art. 1800)

In an agency coupled with interest, it is the agency that cannot be revoked or withdrawn by the principal due to an interest of a third party that depends upon it, or the mutual interest of both principal and agent. In this case, the non-revocation or non-withdrawal under paragraph 5(c) [of the "Power of Attorney"] applies to the advances made by petitioner [agent] who is supposedly the agent and not the principal under the contract. Thus, it cannot

be inferred from the stipulation that the parties' relation under the agreement is one of agency coupled with an interest and not a partnership. *Philex Mining Corp. v. Commissioner of Internal Revenue, 551 SCRA 428 (2008).*

VICENTE M. COLEONGCO vs. EDUARDO L. CLAPAROLS

Eduardo L. Claparols (appellee) operates the Claparol's Steel and Nail Plant in Talisay, Occidental Negros. Due to losses, Claparols was compelled to look for someone to finance his imports of raw material (nail wire). At first, Kho To agreed to finance but eventually introduced Vicente Coleongco (appellant) to Claparols recommending the former to be the latter's financier. Claparols agreed and on the same date, a contract was perfected between them whereby Coleongco undertook to finance and put up the funds required for the importation of the nail wire, which Claparols bound himself to convert into nails at his plant. Sometime in 1953, Claparols executed in favor of Coleongco at the latter's behest, a special power of attorney to open and negotiate letters of credit, to sign contracts, bills of lading, invoices and papers covering transactions, to represent appellee and the nail factory and the acceptance of payments and cash advances from dealers and distributors. Around mid-November 1956, Claparols learned from the Philippine National Bank (PNB) that Coleongco wrote the bank trying to discredit him, causing the bank to issue an alias writ of execution. Behind Claparol's back, Coleongco wrote the bank alleging that Claparols was not serious in meeting his financial obligations by selling the machines. Claparols was able to settle the matter with the bank but because of this, he revoked the SPA. Coleongco denies the allegations and claims that the revocation of the SPA was illegal and that he was entitled to the share of the profits as well as moral damages.

Whether Claparols had the legal power to revoke the power of attorney?

Yes. Coleongco acting in bad faith towards his principal Claparols, is on the record, unquestionable. His letters to the PNB attempting to undermine the credit of the principal and to acquire the factory of the latter, without the principal's knowledge are plain acts of deliberate sabotage by the agent that fully justified the revocation of the power of attorney. The basic rule of contracts requires parties to act loyally toward each other in the pursuit of the common end, and appellant clearly violated the rule of good faith prescribed by Article 1315 of the New Civil Code. Furthermore, it must not be forgotten that a power of attorney can be made irrevocable by contract only in the sense that the principal may not recall it at his pleasure but coupled with interest or not, the authority certainly can be revoked for a just cause, such as when the attorney-in-fact betrays the interest of the principal, as what happened in this case. It is not open to serious doubt that the irrevocability of the power of attorney may not be used to shield the perpetration of acts in bad faith, breach of confidence, or betrayal of trust, by the agent for that would amount to holding that a power coupled with an interest authorizes the agent to commit frauds against the principal. Our new Civil Code, in Article 1172, expressly provides the contrary in prescribing that responsibility arising from fraud is demandable in all obligations, and that any waiver of action for future fraud is void. It is also on this principle that the Civil Code, in its Article 1800, declares that the powers of a partner, appointed as manager, in the articles of co-partnership are irrevocable without just or lawful cause and an agent with power coupled with an interest cannot stand on better ground than such a partner in so far as irrevocability of the power is concerned.

CHING vs. FELIX M. BANTOLO

Respondents Felix M. Bantolo (Bantolo), Antonio O. Adriano and Eulogio Sta. Cruz, Jr. are owners of several parcels of land situated in Tagaytay City. On April 3, 2000, respondents executed in favor of petitioners Albert Ching (Ching) and Romeo J. Bautista

a Special Power of Attorney (SPA) authorizing petitioners to obtain a loan using respondents' properties as collateral. However, without notice to petitioners, respondents executed a Revocation of Power of Attorney effective on July 17, 2000. On July 18, 2000, the Philippine Veterans Bank (PVB) approved the loan application of Ching in the amount of P25 million. On July 31, 2000, Ching thru a letter informed respondents of the approval of the loan. Sometime in the first week of August 2000, petitioners learned about the revocation of the SPA. Consequently, petitioners sent a letter to respondents demanding that the latter comply with the agreement by annulling the revocation of the SPA. On September 8, 2000, petitioners filed before the Regional Trial Court a Complaint for Annulment of Revocation of SPA, Enforcement of SPA and/or interest in the properties covered by said SPA and Damages against respondents.

Whether the SPA executed by respondents in favor of petitioners is a contract of agency coupled with interest and, therefore, should not be freely revocable at the unilateral will of the company?
Yes. The Court ruled that there is no question that the SPA executed by respondents in favor of petitioners is a contract of agency coupled with interest. This is because their bilateral contract depends upon the agency. Hence, it cannot be revoked at the sole will of the principal.

B. REVOCATION

Art. 1920. The principal may revoke the agency at will, and compel the agent to return the document evidencing the agency. Such revocation may be express or implied. (1733a)

a. In Which Case, Principal May Compel Agent to Return the Document Evidencing the Agency.

Where no time for the continuance of the agency is fixed by the terms, the principal is at liberty to terminate it at will subject only to the requirements of good faith. *Dañon v. Brimo*, *42 Phil 133 (1921).*

Art. 1921. If the agency has been entrusted for the purpose of contracting with specified persons, its revocation shall not prejudice the latter if they were not given notice thereof. (1734)

a. When It Affects Dealing with Specified Third Parties

(1) *Refers to an Agency Created by Principal to Deal with Specified Third Persons*

(2) *For Revocation to Prejudice Them, Notice Is Needed*

Art. 1922. If the agent had general powers, revocation of the agency does not prejudice third persons who acted in good faith and without knowledge of the revocation. Notice of the revocation in a newspaper of general circulation is a sufficient warning to third persons. (n)

- Refers to Agency Created to Deal with the General Public
- Revocation Will not Prejudice Third Persons Who Deal with the Agent in Good Faith and Without Knowledge of Revocation
- However Notice of Revocation in a Newspaper of General Circulation Is Sufficient Warning

Where a principal has been engaged, through his agent, in a series of purchase and sell transactions with a merchant, and purported suspended the agent without informing the merchant, the suspension of the agent

could not work to the detriment of the merchant, thus: "There is no convincing proof in the record that the orders given by the plaintiff to its agent (Gutierrez) had ever been communicated to the defendant. The defendant had a perfect right to believe, until otherwise informed, that the agent of the plaintiff, in his purchase of abaca and other effects, was still representing the plaintiff in said transactions." The Court also found anomalous the position taken by the principal whereby he was willing to ratify the acts of the agent in selling goods to the merchant, but unwilling to ratify the agent's acts in purchasing goods from the same merchant. *Cia. Gen. De Tobacos v. Diaba*, *20 Phil 321 (1911).*

Art. 1923. The appointment of a new agent for the same business or transaction revokes the previous agency from the day on which notice thereof was given to the former agent, without prejudice to the provisions of the two preceding articles. (1735a)

Appointment of New Agent for Same Business/Transaction (Art. 1923)

(1) *Impliedly Revoked as to Agent Only*

(2) *As to Third Persons, Notice to Them Is Necessary* (Art. 1922)

In litigation, the fact that a second attorney enters an appearance on behalf of a litigant does not authorize a presumption that the authority of the first attorney has been withdrawn. *Aznar v. Morris, 3 Phil. 636 (1904).*

Where the father first gave a power of attorney over the business to his son, and subsequently to the mother, the Court held that without evidence showing that the son was informed of the issuance of the power of attorney to the mother, the transaction effected by the son pursuant to his power of attorney, was valid and binding. *Garcia v. De Manzano, 39 Phil 577 (1919).*

Art. 1924. The agency is revoked if the principal directly manages the business entrusted to the agent, dealing directly with third persons. (n)

When Principal Directly Manages Business Entrusted to Agent (Art. 1924)

If the purpose of the principal in dealing directly with the purchaser and himself effecting the sale of the principal's property is to avoid payment of his agent's commission, the implied revocation is deemed made in bad faith and cannot be sanctioned without according to the agent the commission which is due him. *Infante v. Cunanan, 93 Phil 693 (1953)*

The act of a contractor, who, after executing powers of attorney in favor of another empowering the latter to collect whatever amounts may be due to him from the Government, and thereafter demanded and collected from the Government the money the collection of which he entrusted to his attorney-in-fact, constituted revocation of the agency. *New Manila Co. v. Republic, 107 Phil 824 (1960)*

Art. 1925. When two or more principals have granted a power of attorney for a common transaction, any one of them may revoke the same without the consent of the others. (n)

Any of the Principals Can Revoke the Authority of Their Common Agent, Without the Consent of the Other(s).

Art. 1926. A general power of attorney is revoked by a special one granted to another agent, as regards the special matter involved in the latter. (n)

General Power of Attorney Is Revoked by a Special One Granted to Another Agent, As Regards the Special Matter Involved in the Latter

Even though a period is stipulated during which the agent or employee is to hold his position in the service of the owner or head of a mercantile establishment, yet the latter may, for any of the special reasons specified in Art. 300 of the Code of Commerce, dismiss such agent or employee even before the termination of the period. *Barretto v. Santa Marina, 26 Phil 440 (1913)*

A special power of attorney giving the son the authority to sell the principals properties is deemed revoked by a subsequent general power of attorney that does not give such power to the son, and any sale effected thereafter by the son in the name of the father would be void. *Dy Buncio and Co. v. Ong Guan Ca, 60 Phil 696 (1934).*

Art. 1927. An agency cannot be revoked if a bilateral contract depends upon it, or if it is the means of fulfilling an obligation already contracted, or if a partner is appointed manager of a partnership in the contract of partnership and his removal from the management is unjustifiable. (n)

JUAN GARCIA vs. JOSEFA DE MANZANO
Narciso Lopez Manzano gave a general power-of-attorney to his son, Angel L. Manzano on the 9th of February, 1910, and on the 25th of March a second general power of attorney to his wife, Josefa Samson. Manzano was the owner of a half interest in a small steamer, the San Nicolas, the other half owned by Ocejo, Perez & Co under a partnership agreement. When the agreement expired Ocejo, Perez & Co demanded that Manzano buy or sell. As he did not want to sell at the price offered and could not buy, Juan Garcia bought the half interest held by Ocejo, Perez & Co. Angel L. Manzano, acting under his power-of-attorney, sold in July, 1911, the other half of the boat to the plaintiff, but as Garcia is a Spaniard and could not register the boat in his name at the Custom House, the boat was registered in the name of Agustin Garcia, a son of the plaintiff, who at that time, July 2, 1913, was a minor about twenty years old. Agustin Garcia shortly thereafter died, leaving his parents as his heirs at law, and as such heirs plaintiff's wife was made a party. The defendants allege that Narciso L. Manzano was the owner of one-half of the small steamer San Nicolas and that Angel L. Manzano had no authority to sell the interest in the steamer, because the power of attorney given to Josefa revoked the one given to the son.

Whether the powerof attorney issued to the wife revoked the one issued to the son?

No. A second power of attorney revokes the first one only after notice given to first agent. There is no proof in the record that the first agent, the son, knew of the power-of-attorney to his mother. It was necessary under the law for the defendants, in

order to establish their counterclaim, to prove that the son had notice of the second power-of-attorney. They have not done so and it must be considered that Angel L. Manzano was acting under a valid power-of-attorney from his father which had not been legally revoked on the date of the sale of the half interest in the steamer to the plaintiff's son, which half interest was legally inherited by the plaintiffs.

C. WITHDRAWAL

Art. 1920. The principal may revoke the agency at will, and compel the agent to return the document evidencing the agency. Such revocation may be express or implied. (1733a)

Where no time for the continuance of the agency is fixed by the terms, the principal is at liberty to terminate it at will subject only to the requirements of good faith. *Dañon v. Brimo, 42 Phil 133 (1921).*

Art. 1928. The agent may withdraw from the agency by giving due notice to the principal. If the latter should suffer any damage by reason of the withdrawal, the agent must indemnify him therefor, unless the agent should base his withdrawal upon the impossibility of continuing the performance of the agency without grave detriment to himself. (1736a)

Right of Agent to Withdraw (Resign) from Agency (Art. 1928)

a. By Giving Due Notice to Principal

b. Agent to Indemnify Principal Should Be Suffer Any Damage

c. Unless Withdrawal Is Due to Impossibility of Continuing Agency Without Grave Detriment to Agent

Art. 1929. The agent, even if he should withdraw from the agency for a valid reason, must continue to act until the principal has had reasonable opportunity to take the necessary steps to meet the situation. (1737a)

Obligation of Agent to Continue to Act Even After Withdrawing From Agency (Art. 1929)

- Even If Agent Withdraws from the Agency for a Valid Reason, He Must Continue to Act;
- Until Principal has had reasonable opportunity to Take Necessary Steps to Meet Situation;

FEDERICO VALERA vs. MIGUEL VELASCO
The defendant was appointed attorney-in-fact of the said plaintiff with authority to manage his property in the Philippines, consisting of the usufruct of a real property located at Echague Street, City of Manila. The defendant, by virtue of the power of attorney, managed plaintiff's property, reported his operations and rendered accounts of his administration On March 31, 1923 presented to plaintiff the final account of his administration for said month, wherein it appears that there is a balance of 3,058.33 in favor of the plaintiff. The liquidation accounts revealed that the plaintiff owed the defendant P1,100, and as a misunderstanding arose between them, the defendant brought suit against the plaintiff. Judgment was rendered in his favor and after the writ of execution was issued, the sheriff levied upon the plaintiff's right of usufruct, sold it at public auction and adjudicated it to the defendant in payment of all of

his claim. Subsequently, the plaintiff sold his right of redemption to one Eduardo Hernandez. Later on, the purchaser conveyed the same right of redemption, to the plaintiff, Frederico Valera. After the plaintiff had recovered his right of redemption, one Salvador Vallejo, who had an execution upon a judgment against the plaintiff rendered in a civil case against the latter, levied upon said right of redemption, which was sold by the sheriff at public auction to Salvador Vallejo and was definitely adjudicated to him. Later, he transferred said right of redemption to the defendant Velasco.

Whether the acquisition of the usufructuary and right of redemption thereto are valid because the agency between Valera and Velasco has been extinguished by virtue of the agent's filing of a suit against his principal?

The fact that an agent institutes an action against his principal for the recovery of the balance in his favor resulting from the liquidation of the accounts between them arising from the agency, and renders a final account of his operations, is equivalent to an express renunciation of the agency, and terminates the juridical relation between them. Article 1732 of the New Civil Code provides: Agency is terminated by: 1. revocation, 2. withdrawal of the agent and 3. the death, interdiction, bankruptcy or insolvency of the principal or of the agent." and article 1736 of the same code provides that: "An agent may withdraw from the agency by giving notice to the principal. Should the latter suffer any damage through the withdrawal, the agent must indemnify him therefore, unless the agent's reason for his withdrawal should be the impossibility of continuing to act as such without serious detriment to himself." The misunderstanding between the plaintiff and the defendant over the payment of the due the latter and the fact that the said defendant brought suit against the said principal for the payment of said balance, more than prove the breach of the juridical relation between them. For, although the agent has not expressly told his principal that he renounced the agency, yet neither dignity nor decorum permits the latter to continue representing a person who has adopted such an antagonistic attitude towards him. When the agent filed a complaint against his principal for recovery of a sum of money arising from the liquidation of the accounts between them in connection with the agency, Federico Valera could not have understood otherwise that Miguel Velasco renounced the agency because his act was more expressive than words and could not have caused any doubt.

D. DEATH/ CIVIL INTERDICTION/ INSANITY/ INSOLVENCY

Art. 1920. The principal may revoke the agency at will, and compel the agent to return the document evidencing the agency. Such revocation may be express or implied. (1733a)

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. (n)

When the Agency Continues Despite Death of Principal:

(1) If It Was Constituted for Common Interest of Principal and Agent; or

(2) In Favor of Third Person Who Accepted Stipulation in His Favor.

An example of an agency coupled with interest is when a power of attorney is constituted in a contract of real estate mortgage pursuant to the requirement of Act No. 3135, which would empower the mortgagee upon the

default of the mortgagor to payment the principal obligation, to effect the sale of the mortgage property through extrajudicial foreclosure. "The argument that foreclosure by the Bank under its power of sale is barred upon death of the debtor, because agency is extinguished by the death of the principal, under . . . Article 1919 of the Civil Code neglects to take into account that the power to foreclose is not an ordinary agency that contemplates exclusively the representation of the principal by the agent but is primarily an authority conferred upon the mortgagee for the latter's own protection. It is, in fact, an ancillary stipulation supported by the same *causa* or consideration for the mortgage and forms an essential and inseparable part of that bilateral agreement. *Perez v. PNB, 17 SCRA 833 (1966)*

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. (1738)

Effect of Acts Done by Agent Without Knowledge of Principal's Death

(1) Acts Are Valid Provided:

(i) Agent Does Not Know of Death or Other Cause of Extinguishment of Agency;

(ii) Third Person Dealing with Agent Must Also Be in Good Faith (Not Aware of Death or Other Cause)

Under Article 1931 of the Civil Code, we must uphold the validity of the sale of the land effected by the agent only after the death of the principal, when no evidence was adduced to show that at the time of sale both the agent and the buyers were unaware of the death of the principal. *Buason v. Panuyas, 105 Phil 795 (1959); Herrera v. Uy Kim Guan, 1 SCRA 406 (1961)*

Art. 1932. 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. (1739

Death of the Agent Extinguishes the Agency

a. Obligation of Agent's Heirs in Case of Agent's Death:

(1) Notify Principal

(2) Adopt Measures as Circumstances Demand in Principal's Interest

NOTE: If Principal Dies, the Law Is Silent on Whether His Heirs Have Any Obligation to Notify the Agent

The contract of agency establishes a purely personal relationship between the principal and the agent, such that the agency is extinguished by the death of the agent, and his rights and obligations arising from the contract of agency are not transmittable to his heirs. *Terrado v. Court of Appeals, 131 SCRA 373 (1984).*