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Peralta and *Tijam, JJ.,* concur.

Sereno, C.J., on leave.

Leonardo-de Castro, J., on official leave.

THIRD DIVISION

[G.R. No. 202364. August 30, 2017]

ARTURO C. CALUBAD, *petitioner, vs.* **RICARCEN DEVELOPMENT CORPORATION,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; APPEAL BY *CERTIORARI* TO THE SUPREME COURT; ONLY QUESTIONS OF LAW MAY BE RAISED; EXCEPTIONS.— The Rules of Court further require that only questions of law should be raised in petitions filed under Rule 45 since factual questions are not the proper subject of an appeal by certiorari. It is not this Court's function to analyze or weigh all over again evidence that has already been considered in the lower courts. However, these rules admit exceptions. *Medina v. Mayor Asistio, Jr.* listed down 10 recognized exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures . . .; (2) When the inference made is manifestly mistaken, absurd or impossible . . .; (3) Where there is a grave abuse of discretion . . .; (4) When the judgment is based on a misapprehension of facts . . .; (5) When the findings of fact are conflicting . . .; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee . . .; (7) The findings of the Court of Appeals are contrary to those of the trial court . . .; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based . . .; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are

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not disputed by the respondents . . .; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

2. MERCANTILE LAW; CORPORATION CODE; CORPORATIONS; BOARD OF DIRECTORS; MAY VALIDLY DELEGATE ITS FUNCTIONS AND POWERS TO ITS OFFICERS OR AGENTS.— As a corporation, Ricarcen exercises its powers and conducts its business through its board of directors, as provided for by Section 23 of the Corporation Code: x x x However, the board of directors may validly delegate its functions and powers to its officers or agents. The authority to bind the corporation is derived from law, its corporate by-laws, or directly from the board of directors, "either expressly or impliedly by habit, custom or acquiescence in the general course of business."

3. CIVIL LAW; OBLIGATIONS AND CONTRACTS; THE PRINCIPAL MUST DELEGATE THE NECESSARY AUTHORITY BEFORE ANYONE CAN ACT ON HIS OR HER BEHALF; ACTUAL AUTHORITY AND APPARENT AUTHORITY; EXPLAINED.— Article 1317 of the Civil Code similarly provides that the principal must delegate the necessary authority before anyone can act on his or her behalf. Nonetheless, law and jurisprudence recognize actual authority and apparent authority as the two (2) types of authorities conferred upon a corporate officer or agent in dealing with third persons. Actual authority can either be express or implied. Express actual authority refers to the power delegated to the agent by the corporation, while an agent's implied authority can be measured by his or her prior acts which have been ratified by the corporation or whose benefits have been accepted by the corporation. On the other hand, apparent authority is based on the principle of estoppel. x x x The doctrine of apparent authority provides that even if no actual authority has been conferred on an agent, his or her acts, as long as they are within his or her apparent scope of authority, bind the principal. However, the principal's liability is limited to third persons who are reasonably led to believe that the agent was authorized to act for the principal due to the principal's conduct. Apparent authority is determined by the acts of the principal and not by the acts of the agent. Thus, it is incumbent upon Calubad to prove how Ricarcen's acts led him to believe that Marilyn was duly authorized to represent it.

4. ID.; ID.; ID.; ID.; APPARENT AUTHORITY; A CASE OF.— Calubad could not be faulted for continuing to transact with Marilyn, even agreeing to give out additional loans, because Ricarcen clearly clothed her with apparent authority. Likewise, it reasonably appeared that Ricarcen's officers knew of the mortgage contracts entered into by Marilyn in Ricarcen's behalf as proven by the issued Banco De Oro checks as payments for the monthly interest and the principal loan. Ricarcen claimed that it never granted Marilyn authority to transact with Calubad or use the Quezon City property as collateral for the loans, but its actuations say otherwise. It appears as if Ricarcen and its officers gravely erred in putting too much trust in Marilyn. However, Calubad, as an innocent third party dealing in good faith with Marilyn, should not be made to suffer because of Ricarcen's negligence in conducting its own business affairs. This finds support in *Yao Ka Sin Trading*: Also, "if a private corporation intentionally or negligently clothes its officers or agents with apparent power to perform acts for it, the corporation will be estopped to deny that such apparent authority is real, as to innocent third persons dealing in good faith with such officers or agents."

5. CIVIL LAW; DAMAGES; MORAL DAMAGES; CONDITIONS FOR THE AWARD THEREOF; NOT ESTABLISHED IN CASE AT BAR.— Moral damages are not automatically awarded when there is a breach of contract. It must also be proven that the party who breached the contract acted fraudulently or in bad faith, in wanton disregard of the contracted obligation. In addition, the following conditions must be met before moral damages may be awarded: (1) *first*, there must be an injury, whether physical, mental or psychological, clearly sustained by the claimant; (2) *second*, there must be culpable act or omission factually established; (3) *third*, the wrongful act or omission of the defendant is the proximate cause of the injury sustained by the claimant; and (4) *fourth*, the award of damages is predicated on any of the cases stated in Article 2219 of the Civil Code. Petitioner failed to allege that Ricarcen acted fraudulently or wantonly when it breached the loan and mortgage contract. Neither is this Court convinced that fraud, bad faith, or wanton disregard of its obligation can be imputed to Ricarcen due to its bad business judgment and negligence in putting too much trust in Marilyn. It was not

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sufficiently shown that Ricarcen was spurred by a dishonest purpose or was motivated by ill will or fraud when it assailed the contract entered into by Marilyn and Calubad.

6. ID.; ID.; EXEMPLARY DAMAGES; ABSENT EVIDENCE OF FRAUDULENT AND WANTON ACTS, AWARD IS NOT PROPER; ATTORNEY'S FEES AND COSTS OF SUIT CANNOT BE RECOVERED IN THE ABSENCE OF EXEMPLARY DAMAGES.— [E]xemplary damages cannot be awarded in the absence of evidence that Ricarcen acted fraudulently or wantonly. Finally, in the absence of exemplary damages, attorney's fees, and costs of suit also cannot be recovered.

APPEARANCES OF COUNSEL

Emmanuel M. Basa for petitioner.
Ponce Enrile Reyes & Manalastas for respondent.

D E C I S I O N

LEONEN, *J.*:

When a corporation intentionally or negligently clothes its agent with apparent authority to act in its behalf, it is estopped from denying its agent's apparent authority as to innocent third parties who dealt with this agent in good faith.[1]

This resolves the Petition for Review on Certiorari[2] filed by petitioner Arturo C. Calubad (Calubad), assailing the January 25, 2012 Decision[3] and June 20, 2012 Resolution[4] of the Court of Appeals in CA-G.R. CV No. 93185, which upheld the

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[1] *Yao Ka Sin Trading v. Court of Appeals*, 285 Phil. 345, 367 (1992) [Per *J.* Davide, Jr., Third Division].

[2] *Rollo*, pp. 9-54.

[3] *Id*. at 113-130. The Decision was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Celia C. Librea-Leagogo and Danton Q. Bueser of the Seventeenth Division, Court of Appeals, Manila.

[4] *Id*. at 132-133.

January 6, 2009 Decision[5] of Branch 218, Regional Trial Court, Quezon City in Civil Case No. Q-03-50584.

Respondent Ricarcen Development Corporation (Ricarcen) was a domestic corporation engaged in renting out real estate. It was the registered owner of a parcel of land located at 53 Linaw St., Sta. Mesa Heights, Quezon City.[6] This parcel of land was covered by Transfer Certificate of Title (TCT) No. RT-84937 (166018)[7] and was subdivided into two (2) lots.[8]

Ricarcen was a family corporation. Marilyn R. Soliman (Marilyn) was its president from 2001 to August 2003. The other members of the board of directors during that time were Marilyn's mother, Erlinda Villanueva (Erlinda), her brother, Josefelix R. Villanueva (Josefelix), her aunt, Maura Rico, and her sisters, Ma. Elizabeth V. Chamorro (Elizabeth), Ma. Theresa R. Villanueva, and Annabelle R. Villanueva.[9]

On October 15, 2001, Marilyn, acting on Ricarcen's behalf as its president, took out a ₱4,000,000.00 loan from Calubad. This loan was secured by a real estate mortgage over Ricarcen's Quezon City property covered by TCT No. RT-84937 (166018), as evidenced by a Deed of Real Estate Mortgage.[10]

The terms of the loan provided that Ricarcen would pay the ₱4,000,000.00 loan within a period of six (6) months with "a compounded interest at the rate of FIVE (5%) percent for the first month and THREE (3%) percent for [the] succeeding months and a penalty of ONE (1%) percent per month on the principal sum in case of delay in payment."[11] The terms of the loan also

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[5] *Id*. at 106-111. The Decision was penned by Judge Hilario L. Laqui.

[6] *Id*. at 114.

[7] *Id*. at 68-70.

[8] *Id*. at 114.

[9] *Id*.

[10] *Id*. at 74-77.

[11] *Id*. at 75.

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provided that the first monthly interest payment of ₱200,000.00 would be deducted from the loan proceeds.[12]

On December 6, 2001, Ricarcen, through Marilyn, and Calubad amended and increased the loan to ₱5,000,000.00 in the Amendment of Deed of Mortgage (Additional Loan of ₱1,000,000.00),[13] with the same property used as security and under the same terms and conditions as those of the original Deed of Real Estate Mortgage.

On May 8, 2002, Ricarcen, again acting through Marilyn, took out an additional loan of ₱2,000,000.00 from Calubad, as evidenced by the executed Second Amendment of Deed of Mortgage (Additional Loan of ₱2,000,000.00).[14]

To prove her authority to execute the three (3) mortgage contracts in Ricarcen's behalf, Marilyn presented Calubad with a Board Resolution dated October 15, 2001.[15] This Resolution empowered her to borrow money and use the Quezon City property covered by TCT No. RT-84937 (166018) as collateral for the loans. Marilyn also presented two (2) Secretary's Certificates dated December 6, 2001[16] and May 8, 2002,[17] executed by Marilyn's sister and Ricarcen's corporate secretary, Elizabeth.

Sometime in 2003, after Ricarcen failed to pay its loan, Calubad initiated extrajudicial foreclosure proceedings on the real estate mortgage. The auction sale was set on March 19, 2003.[18]

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[12] *Id*.

[13] *Id*. at 78-80.

[14] *Id*. at 81-83.

[15] *Id*. at 98.

[16] *Id*. at 99.

[17] *Id*. at 100.

[18] *Id*. at 116.

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Calubad was the highest bidder during the scheduled auction sale; thus, on March 27, 2003, he was issued a Certificate of Sale.[19]

On April 10, 2003, the Certificate of Sale was annotated on TCT No. RT-84937 (166018).[20]

Ricarcen claimed that it only learned of Marilyn's transactions with Calubad sometime in July 2003.[21]

Upon confirming that the Quezon City property had indeed been mortgaged, foreclosed, and sold to Calubad as a result of Marilyn's actions, Ricarcen's board of directors removed her as president and appointed Josefelix as its new president. Josefelix was also authorized to initiate the necessary court actions to protect Ricarcen's interests over the Quezon City property.[22]

On September 9, 2003, Ricarcen filed its Complaint for Annulment of Real Estate Mortgage and Extrajudicial Foreclosure of Mortgage and Sale with Damages against Marilyn, Calubad, and employees of the Registry of Deeds of Quezon City and of the Regional Trial Court of Quezon City.[23]

On October 9, 2003, the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Quezon City. Atty. Mercedes S. Gatmaytan, was discharged as party-defendant.[24]

In its Complaint, Ricarcen claimed that it never authorized its former president Marilyn to obtain loans from Calubad or use the Quezon City property as collateral for the loans.[25]

On the other hand, Calubad insisted that the incidents which led to the foreclosure and sale of the Quezon City property

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[19] *Id*. at 84.

[20] *Id*. at 117.

[21] *Id*.

[22] *Id*. at 117-118.

[23] *Id*. at 118.

[24] *Id*.

[25] *Id*. at 118-119.

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were all above board and were not marked with irregularity. Furthermore, he asserted that he exercised the necessary diligence required under the circumstances by requiring Marilyn to submit the necessary documents to prove her authority from Ricarcen. Calubad likewise argued that even if Ricarcen did not authorize Marilyn, it was already estopped from denying her authority since the loan proceeds had been released and Ricarcen had benefited from them.[26]

For their part, spouses Marilyn and Napoleon Soliman denied any knowledge of or participation in the allegedly falsified documents and claimed that the falsification was perpetrated by their broker, Nena Ico, and Calubad's broker, a certain Malou, without their permission.[27]

On January 6, 2009, the Regional Trial Court[28] granted Ricarcen's complaint and annulled the mortgage contracts, extrajudicial foreclosure, and sale by public auction.

The Regional Trial Court held that Marilyn failed to present a special power of attorney as evidence of her authority from Ricarcen. The lack of a special power of attorney should have been enough for Calubad to be put on guard and to require further evidence of Marilyn's authority from Ricarcen.[29]

The Regional Trial Court also ruled that the Board Resolution and Secretary's Certificates, which were supposedly executed by Ricarcen's Board of Directors, had been unmasked to be merely fabricated. Furthermore, Atty. William S. Merginio, who purportedly notarized the Board Resolution and Secretary's Certificates, denied that he notarized those documents since they did not appear in his notarial register.[30]

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[26] *Id*. at 119.

[27] *Id*. at 102.

[28] *Id*. at 106-111.

[29] *Id*. at 108-109.

[30] *Id*. at 109.

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The Regional Trial Court then dismissed the complaint against the Registry of Deeds employees for Ricarcen's failure to show any irregularity in the performance of their duties.[31] The dispositive portion of the Regional Trial Court Decision read:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Ricarcen Development Corporation and further:

1. Declaring as null and void the following:

- Deed of Real Estate Mortgage dated 15 October 2001;
- Amendment of Real Estate Mortgage dated 06 December 2001;
- Second Amendment of Deed of Mortgage dated 08 May 2002; and
- Extrajudicial Foreclosure of Mortgage and Sale by public auction in favor of Arturo Calubad[;]

2. Canceling TCT No. 261881 in the name of Arturo Calubad and reinstating TCT No. RT-84937 (166018), both by the Regist[ry] of Deeds of Quezon City; and

3. Ordering defendants spouses Solimans and Calubad to pay jointly and severally damages in the amount of Two Hundred Fifty Thousand Pesos (Php250,000.00) as attorney's fees and costs of litigation.

SO ORDERED.[32]

Only Calubad appealed the Regional Trial Court Decision to the Court of Appeals.

On January 25, 2012, the Court of Appeals dismissed Calubad's appeal and affirmed the Regional Trial Court Decision. The Court of Appeals emphasized that the rule on the presumption of validity of a notarized board resolution and of a secretary's certificate is not absolute and may be validly overcome by contrary evidence;[33] thus:

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[31] *Id*. at 110.

[32] *Id*. at 110-111.

[33] *Id*. at 123-124.

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In order to defeat the presumption, it is incumbent upon RICARCEN to prove "with clear, convincing, strong and irrefutable proof" that the board resolution and secretary's certificates purportedly authorizing Marilyn Soliman to secure a loan and mortgage the subject property in behalf of the corporation are, in fact, invalid.

In the case at bench, RICARCEN was able to discharge this burden. The truth of the contents of the board resolution and secretary's certificates relied upon by Calubad had been overthrown by the records of this case which clearly show that such documents were not in fact executed by the board of directors of RICARCEN, and are, therefore, fabricated.[34]

The Court of Appeals also disregarded Calubad's argument that Ricarcen was guilty of laches, ruling that Ricarcen's board of directors only found out about the mortgage contracts in July 2003, when they received a copy of the notice of foreclosure of mortage. Upon verifying with the Registry of Deeds of Quezon City, Ricarcen took immediate action by removing Marilyn as president and instituting a case for annulment and cancellation of mortgage against Calubad and Marilyn.[35]

The Court of Appeals likewise set aside Calubad's argument that Ricarcen was estopped from denying the contracts. The Court of Appeals held that since Ricarcen did not know about the existence of the contracts of mortgage between Calubad and Marilyn, it could not have ratified them or knowingly accepted any benefits from the loan proceeds.[36]

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby ordered **DISMISSED**, and the appealed decision is **AFFIRMED *in toto***.

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[34] *Id*. at 124.

[35] *Id*. at 127-128.

[36] *Id*. at 128.

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SO ORDERED.[37] (Emphasis in the original)

On August 10, 2012, Calubad filed his Petition[38] before this Court.

Petitioner claims that Ricarcen is barred by estoppel from denying Marilyn's authority to enter into a contract of loan and mortgage with Calubad for several reasons. He argues that Ricarcen clothed Marilyn in apparent authority to act in its behalf,[39] that it benefited from the loans proceeds,[40] and that it impliedly agreed to the mortgage loans by paying the monthly interest payments.[41]

Petitioner avers that Elizabeth executed four (4) separate document which gave Marilyn the authority to secure loans, use the Quezon City property as collateral, and execute all documents needed for those purposes.[42]

The four (4) documents which petitioner claimed to have proved Marilyn's authority to act in behalf of Ricarcen were:

a) Board Resolution dated October 15, 2001, which read:

RESOLVED, AS IT IS HEREBY RESOLVED, that the President MARILYN R. SOLIMAN, is the authorized signatory of the corporation to transact any and all documents necessary for the purpose of securing monetary loan using a parcel of land owned by the corporation located at No. 53 Linaw St., Quezon City covered by TCT No. RT 84937 (166018) of the Registry of Deeds of [Quezon City] with a total area of 840 square meters more or less, as collateral/security.

RESOLVED FURTHER, AS IT IS HEREBY RESOLVED, that she is authorized to sign all documents required for the monetary loan for and in behalf of the corporation.[43]

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[37] *Id*. at 129.

[38] *Id*. at 9-54.

[39] *Id*. at 30-37.

[40] *Id*. at 38-45.

[41] *Id*. at 45-51.

[42] *Id*. at 31-33.

[43] *Id*. at 98.

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b) Secretary's Certificate dated October 15, 2001, which read:

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the corporation will borrow from ARTURO CALUBAD, Filipino, of legal age, and residing at 89 East Maya Philam Homes Village, Quezon City.

FURTHERMORE, BE IT RESOLVED, that the corporation is authorizing MARILYN R. SOLIMAN, President, to sign for and in behalf of the corporation.[44]

c) Secretary's Certificate dated December 6, 2001, which read:

RESOLVED, as it is hereby resolved that the President, MARILYN R. SOLIMAN, is hereby authorized to secure ADDITIONAL LOAN OF [₱]1,000,000.00 from MR. ARTURO CALUBAD, using as collateral two (2) parcels of land with the improvements existing thereon, situated in Quezon City, Metro Manila, covered and embraced by Transfer Certificate of Title No. RT-84937 (166018) of the Registry of Deeds of Quezon City, Metro Manila, and in such amount that she deems it most proper and beneficial to the corporation.

RESOLVED FINALLY, that the President is hereby authorized to sign Amendment of Deed of Real Estate Mortgage, Acknowledgment Receipt and other pertinent documents and get and receive the loan either in cash or check/s with any bank lawfully doing business in the Philippines for and in behalf of the corporation.[45]

d) Secretary's Certificate dated May 8, 2002, which read:

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the corporation will secure additional monetary loan of ₱2,000,000.00 from ARTURO CALUBAD, Filipino, of legal age, and residing at 89 East Maya Philam Homes Village, Quezon City, using a parcel of land owned by the corporation located at No. 53 Linaw St., Quezon City covered by TCT No. RT-84937 (166018) of the Registry of Deeds of [Quezon City] with a total area of 840 square meters more or less, as collateral/security.

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[44] *Id*. at 32.

[45] *Id*. at 99.

FURTHERMORE, BE IT RESOLVED, that the corporation is authorizing MARILYN R. SOLIMAN, President, to sign for and in behalf of the corporation.[46]

All these four (4) documents were signed by Elizabeth in her capacity as Ricarcen's corporate secretary.

Elizabeth later on denied signing any of these four (4) documents cited by petitioner, saying that she regularly signed blank documents and left them with her sister Marilyn. She opined that the Board Resolution and Secretary's Certificates, which purportedly gave Marilyn the authority to transact with petitioner in Ricarcen's behalf, might have been some of the blank documents she had earlier signed.[47]

However, petitioner asserts that the fact that Elizabeth entrusted signed, blank documents to Marilyn proved that Ricarcen authorized her to secure loans and use its properties as collateral for the loans.[48]

Petitioner also points out that Marilyn had possession of the owner's duplicate copy of TCT No. RT-84937 (166018), and thus, he had no reason but to believe that she was authorized by Ricarcen to deal and transact in its behalf.[49]

Additionally, the loan proceeds were issued through checks payable to Ricarcen, which were deposited in its bank account and were cleared. As further evidence of Ricarcen's receipt of the loan proceeds, petitioner presented several checks drawn and issued by Elizabeth or Erlinda, jointly with Marilyn, representing loan payments.[50]

Petitioner also presented several withdrawal slips signed by either Elizabeth or Erlinda, jointly with Marilyn, authorizing

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[46] *Id*. at 100.

[47] *Id*. at 33-36.

[48] *Id*. at 36.

[49] *Id*. at 38.

[50] *Id*. at 39-40.

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a certain Lilydale Ombina to repeatedly withdraw from Ricarcen's bank account.[51]

Petitioner likewise presented several checks drawn from Ricarcen's bank account, issued by Elizabeth or Erlinda, jointly with Marilyn, payable to third persons or to cash.[52] Petitioner maintains that the foregoing evidence is indubitable proof that the loan proceeds have been used by Ricarcen.[53]

Petitioner then claims that Ricarcen, in a check drawn and issued by Erlinda and Marilyn, paid the 3% monthly interest for the first loan of ₱4,000,000.00. This bolstered his belief that Ricarcen and its officers knew of and approved that loan, and induced him to grant Ricarcen, through Marilyn, additional loans.[54]

Petitioner asserts that the acts of Elizabeth and Erlinda are equivalent to clothing Marilyn with apparent authority to deal with him and use the Quezon City property as collateral:

> Their acts are also a manifestation of their acquiescence to Marilyn Soliman's availment of loans and execution of real estate mortgage with petitioner.
>
> Thus, even if Marilyn Soliman had acted without or in excess of her actual authority, if she acted within the scope of an apparent authority with which [Ricarcen] has clothed her by holding her out or permitting her to appear as having such authority, [Ricarcen] is bound thereby in favor of petitioner who in good faith relied on such apparent authority.[55]

On November 12, 2012, this Court required Ricarcen to comment on the Petition.[56]

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[51] *Id*. at 40-42.

[52] *Id*. at 42-43.

[53] *Id*. at 44.

[54] *Id*. at 45-47.

[55] *Id*. at 49-50.

[56] *Id*. at 135-136.

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On February 4, 2013, Ricarcen filed its Comment,[57] where it claims that the Petition raised questions of fact, which are not proper in a petition for review on certiorari. It also avers that petitioner failed to raise any exceptional circumstances, and thus, should be dismissed outright.[58]

Ricarcen asserts that while the documents it purportedly issued enjoy the presumption of validity, this presumption is not absolute and it has shown convincing evidence as to the invalidity of the Board Resolution and of the Secretary's Certificates.[59]

Ricarcen points out that Marilyn clearly acted without authority when she entered into a loan and mortgage agreement with petitioner. Being void, the contracts of loan and mortgage can never be ratified.[60]

Ricarcen also denied that it was guilty of laches since it only learned about Marilyn's loan with Calubad in July 2003, when it received a notice of foreclosure. Upon learning of the extrajudicial foreclosure and sale by public auction, it immediately removed Marilyn as president and authorized Josefelix to file the necessary actions to protect Ricarcen's interests.[61]

Ricarcen likewise claims that it cannot be held guilty of estoppel *in pais* since it never induced nor led petitioner to believe that Marilyn was duly authorized to take out a loan and to mortgage the Quezon City property as collateral. Additionally, "it did not knowingly accept any benefit" from the loan proceeds.[62]

Ricarcen declares that petitioner either connived with Marilyn or, at the very least, failed to exercise reasonable diligence

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[57] *Id*. at 141-157.

[58] *Id*. at 141-142.

[59] *Id*. at 147-148.

[60] *Id*. at 148.

[61] *Id*. at 150-151.

[62] *Id*. at 151-152.

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and prudence in ascertaining Marilyn's supposed agency from Ricarcen.[63]

On March 11, 2013, this Court noted Ricarcen's Comment and required Calubad to reply to the Comment.[64]

On May 9, 2013, Calubad filed his Reply,[65] where he denied that he raised purely questions of fact in his Petition since the issue raised was "the law and jurisprudence applicable to the facts of this case, or whether the conclusion drawn by the Court of Appeals from those facts is correct or not."[66]

Petitioner likewise claims that the findings of the Court of Appeals were contradicted by the evidence on record, and hence, were not conclusive or binding on the parties.[67]

On April 6, 2016, this Court noted Calubad's motion for early decision dated March 21, 2016.[68]

The only issue presented for this Court's resolution is whether or not Ricarcen Development Corporation is estopped from denying or disowning the authority of Marilyn R. Soliman, its former President, from entering into a contract of loan and mortgage with Arturo C. Calubad.

The petition is meritorious.

I

The Rules of Court categorically state that a review of appeals filed before this Court is "not a matter of right, but of sound judicial discretion."[69] The Rules of Court further require that

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[63] *Id*. at 154-155.

[64] *Id*. at 159.

[65] *Id*. at 171-188.

[66] *Id*. at 171.

[67] *Id*. at 172-173.

[68] *Id*. at 193.

[69] RULES OF COURT, Rule 45, Sec. 6.

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only questions of law should be raised in petitions filed under Rule 45[70] since factual questions are not the proper subject of an appeal by certiorari. It is not this Court's function to analyze or weigh all over again evidence that has already been considered in the lower courts.[71]

However, these rules admit exceptions. *Medina v. Mayor Asistio, Jr.*[72] listed down 10 recognized exceptions:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures . . .; (2) When the inference made is manifestly mistaken, absurd or impossible . . .; (3) Where there is a grave abuse of discretion . . .; (4) When the judgment is based on a misapprehension of facts . . .; (5) When the findings of fact are conflicting . . .; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee . . .; (7) The findings of the Court of Appeals are contrary to those of the trial court . . .; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based . . .; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents . . .; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record...[73]

Pascual v. Burgos[74] instructed that parties must demonstrate by convincing evidence that the case clearly falls under the exceptions to the rule:

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[70] RULES OF COURT, Rule 45, Sec. 1 provides:

> Section 1. *Filing of petition with Supreme Court*. – A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

[71] *Quintos v. Nicolas*, 736 Phil. 438, 451 (2014) [Per *J*. Velasco, Third Division].

[72] 269 Phil. 225 (1990) (Per *J*. Bidin, Third Division].

[73] *Id*. at 232.

[74] G.R. No. 171722, January 11, 2016, 778 SCRA 189 [Per *J*. Leonen, Second Division].

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Parties praying that this court review the factual findings of the Court of Appeals must demonstrate and prove that the case clearly falls under the exceptions to the rule. They have the burden of proving to this court that a review of the factual findings is necessary. Mere assertion and claim that the case falls under the exceptions do not suffice.[75]

Petitioner claims that his case falls under the exceptions to the general rule on a Rule 45 appeal since the findings of the lower courts are contradicted by the evidence on record.[76] After a careful study of the records, this Court is convinced that this case falls under the exceptions cited in *Medina*, particularly in that "the inference made is manifestly mistaken," making a Rule 45 appeal proper.

II

As a corporation, Ricarcen exercises its powers and conducts its business through its board of directors, as provided for by Section 23 of the Corporation Code:

Section 23. *The board of directors or trustees*. – Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified.

However, the board of directors may validly delegate its functions and powers to its officers or agents. The authority to bind the corporation is derived from law, its corporate by-laws, or directly from the board of directors, "either expressly or impliedly by habit, custom or acquiescence in the general course of business."[77]

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[75] *Id*. at 207 *citing Borlongan v. Madrideo*, 380 Phil. 215, 223 (2000) [Per *J*. De Leon, Jr., Second Division].

[76] *Rollo*, pp. 172-173.

[77] *People's Aircargo and Warehousing Co., Inc. v. Court of Appeals*, 357 Phil. 850, 863 (1998) [Per *J*. Panganiban, First Division].

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The general principles of agency govern the relationship between a corporation and its representatives.[78] Article 1317[79] of the Civil Code similarly provides that the principal must delegate the necessary authority before anyone can act on his or her behalf.

Nonetheless, law and jurisprudence recognize actual authority and apparent authority as the two (2) types of authorities conferred upon a corporate officer or agent in dealing with third persons.[80]

Actual authority can either be express or implied. Express actual authority refers to the power delegated to the agent by the corporation, while an agent's implied authority can be measured by his or her prior acts which have been ratified by the corporation or whose benefits have been accepted by the corporation.[81]

On the other hand, apparent authority is based on the principle of estoppel. The Civil Code provides:

Article 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

. . . . . .

Article 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.

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[78] *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*, 778 SCRA 458, 500, G.R. Nos. 194964-65, January 11, 2016 [Per *J.* Leonen, Second Division].

[79] CIVIL CODE, Art. 1317 provides:

Article 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.

[80] *Banate v. Philippine Countryside Rural Bank (Liloan, Cebu), Inc.*, 639 Phil. 35, 45-46 (2010) [Per *J.* Brion, Third Division].

[81] *Id.* at 45-46.

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Yao Ka Sin Trading v. Court of Appeals[82] instructed that an agent's apparent authority from the principal may also be ascertained through:

> (1) the general manner by which the corporation holds out an officer or agent as having power to act or, in other words, the apparent authority with which it clothes him to act in general, or (2) the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or without the scope of his ordinary powers.

The doctrine of apparent authority provides that even if no actual authority has been conferred on an agent, his or her acts, as long as they are within his or her apparent scope of authority, bind the principal. However, the principal's liability is limited to third persons who are reasonably led to believe that the agent was authorized to act for the principal due to the principal's conduct.[83]

Apparent authority is determined by the acts of the principal and not by the acts of the agent.[84] Thus, it is incumbent upon Calubad to prove how Ricarcen's acts led him to believe that Marilyn was duly authorized to represent it.

III

As the former president of Ricarcen, it was within Marilyn's scope of authority to act for and enter into contracts in Ricarcen's behalf. Her broad authority from Ricarcen can be seen with how the corporate secretary entrusted her with blank yet signed sheets of paper to be used at her discretion.[85] She also had possession of the owner's duplicate copy of the land title covering the property mortgaged to Calubad, further proving her authority from Ricarcen.[86]

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[82] 285 Phil. 345, 367 (1992) [Per *J*. Davide, Jr., Third Division].

[83] *Banate v. Philippine Countryside Rural Bank (Liloan, Cebu), Inc.*, 639 Phil. 35, 47 (2010) [Per *J*. Brion, Third Division].

[84] *Id*.

[85] *Rollo*, p. 125.

[86] *Id*. at 38.

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The records show that on October 15, 2001, Calubad drew and issued two (2) checks payable to Ricarcen representing the loan proceeds for the first mortgage. The first check was Equitable PCI Bank check number 0024416 for ₱2,920,000.00 and the second check was Equitable PCI Bank check number 0000461 for ₱600,000.00. Both checks were deposited in Ricarcen's bank account with Banco de Oro, Banawe Branch, and were honored by the drawee bank.[87]

On December 6, 2001, Marilyn negotiated for an additional ₱1,000,000.00 loan with Calubad, under the same terms and conditions.[88]

From December 15, 2001 to April 15, 2002, Ricarcen paid and issued several checks payable to Calubad, which he claimed were the monthly interest payments of the mortgage loans. The following checks were drawn by Erlinda and Marilyn for Ricarcen:

(a) Banco de Oro check number 0000067624 dated December 15, 2001 for ₱120,000.00;
(b) Banco de Oro check number 0000067622 dated January 15, 2002 for ₱120,000.00;
(c) Banco de Oro check number 000067626 dated February 15, 2002 for ₱120,000.00;
(d) Banco de Oro check number 0000067673 dated March 6, 2002 for ₱30,000.00;
(e) Banco de Oro check number 0000067625 dated March 15, 2002 for ₱120,000.00;
(f) Banco de Oro check number 0000067674 dated April 6, 2002 for ₱30,000.00; and
(g) Banco de Oro check number 0002422 dated April 15, 2002 for ₱120,000.00.[89]

Calubad deposited the January 15, 2002 check into his Metrobank, EDSA-Caloocan Branch account, while the rest of the checks were deposited in his bank account with Equitable

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[87] *Id*. at 39.

[88] *Id*. at 78-80.

[89] *Id*. at 174-175.

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PCI Bank, A. De Jesus-EDSA Branch. All the checks from Ricarcen cleared.[90]

For the additional loan of ₱2,000,000.00 obtained on May 8, 2002, Ricarcen again issued several Banco de Oro checks dated June 15, 2002 to December 6, 2002 as payments for this loan and its monthly interest. These checks were made to Calubad's order and were drawn by either Erlinda or Elizabeth with Marilyn.[91]

However, Banco de Oro check number 0082424 dated June 15, 2002 for ₱120,000.00, Banco de Oro check number 0082425 dated July 15, 2002 for ₱120,000.00, and Banco de Oro check number 0082426 dated August 15, 2002 for ₱120,000 were all dishonored by the drawee bank for insufficiency of funds.[92]

Calubad states that he no longer deposited the following checks from Ricarcen upon Marilyn's request, since she claimed that Ricarcen's funds were by then insufficient to pay the issued checks:

(a) Banco de Oro check number 0082467 dated July 6, 2002 for ₱30,000.00;
(b) Banco de Oro check number 0082447 dated July 8, 2002 for ₱60,000.00;
(c) Banco de Oro check number 0082448 dated August 8, 2002 for ₱2,000,000.00;
(d) Banco de Oro check number 0082469 dated September 6, 2002 for ₱30,000.00;
(e) Banco de Oro check number 0082427 dated September 15, 2002 for ₱120,000.00;
(f) Banco de Oro check number 0082470 dated October 6, 2002 for ₱30,000.00;
(g) Banco de Oro check number 0082428 dated October 15, 2002 for ₱4,000,000.00;

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[90] *Id*. at 175.

[91] *Id*. at 175-177.

[92] *Id*. at 175-176.

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(h) Banco de Oro check number 0082471 dated November 6, 2002 for ₱30,000.00; and
(i) Banco de Oro check number 0082472 dated December 6, 2002 for ₱1,000,000.00.[93]

Calubad could not be faulted for continuing to transact with Marilyn, even agreeing to give out additional loans, because Ricarcen clearly clothed her with apparent authority. Likewise, it reasonably appeared that Ricarcen's officers knew of the mortgage contracts entered into by Marilyn in Ricarcen's behalf as proven by the issued Banco De Oro checks as payments for the monthly interest and the principal loan.

Ricarcen claimed that it never granted Marilyn authority to transact with Calubad or use the Quezon City property as collateral for the loans, but its actuations say otherwise. It appears as if Ricarcen and its officers gravely erred in putting too much trust in Marilyn. However, Calubad, as an innocent third party dealing in good faith with Marilyn, should not be made to suffer because of Ricarcen's negligence in conducting its own business affairs. This finds support in *Yao Ka Sin Trading*:[94]

Also, "if a private corporation intentionally or negligently clothes its officers or agents with apparent power to perform acts for it, the corporation will be estopped to deny that such apparent authority is real, as to innocent third persons dealing in good faith with such officers or agents."[95]

IV

Nonetheless, petitioner's prayer for the award of damages must be denied for failing to provide factual or legal basis for the award.

Moral damages are not automatically awarded when there is a breach of contract. It must also be proven that the party who

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[93] *Id*. at 175-177.

[94] 285 Phil. 345 (1992) [Per *J*. Davide, Jr., Third Division].

[95] *Id*. at 367.

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breached the contract acted fraudulently or in bad faith, in wanton disregard of the contracted obligation.[96] In addition, the following conditions must be met before moral damages may be awarded:

> (1) *first*, there must be an injury, whether physical, mental or psychological, clearly sustained by the claimant; (2) *second*, there must be culpable act or omission factually established; (3) *third*, the wrongful act or omission of the defendant is the proximate cause of the injury sustained by the claimant; and (4) *fourth*, the award of damages is predicated on any of the cases stated in Article 2219 of the Civil Code.[97] (Emphasis supplied)

Petitioner failed to allege that Ricarcen acted fraudulently or wantonly when it breached the loan and mortgage contract. Neither is this Court convinced that fraud, bad faith, or wanton disregard of its obligation can be imputed to Ricarcen due to its bad business judgment and negligence in putting too much trust in Marilyn. It was not sufficiently shown that Ricarcn was spurred by a dishonest purpose or was motivated by ill will or fraud when it assailed the contract entered into by Marilyn and Calubad.

In the same manner, exemplary damages[98] cannot be awarded in the absence of evidence that Ricarcen acted fraudulently or wantonly. Finally, in the absence of exemplary damages, attorney's fees, and costs of suit also cannot be recovered.[99]

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[96] *Philippine Savings Bank v. Spouses Castillo*, 664 Phil. 774, 786 (2011) [Per *J.* Nachura, Second Division].

[97] *Francisco v. Ferrer, Jr.*, 405 Phil. 741, 749-750 (2001) [Per *J.* Pardo, First Division].

[98] CIVIL CODE, Art. 2232 provides:

Article 2232. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

[99] CIVIL CODE, Art. 2208 provides:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

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WHEREFORE, the Petition is **GRANTED**. The assailed January 25, 2012 Decision and June 20, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 93185 are **REVERSED and SET ASIDE**. Ricarcen Development Corporation's Amended Complaint in Civil Case No. Q-03-50584 before Branch 218, Regional Trial Court, Quezon City is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Velasco, Jr. (*Chairperson*), *Bersamin, Martires*, and *Gesmundo, JJ.*, concur.

THIRD DIVISION

[G.R. No. 203943. August 30, 2017]

MAGSAYSAY MARITIME CORPORATION/EDUARDO MANESE and PRINCESS CRUISE LINES, LTD., *petitioners, vs.* **CYNTHIA DE JESUS,** *respondent.*

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(1) When exemplary damages are awarded;
(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
(3) In criminal cases of malicious prosecution against the plaintiff;
(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
(6) In actions for legal support;
(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
(8) In actions for indemnity under workmen's compensation and employer's liability laws;
(9) In a separate civil action to recover civil liability arising from a crime;
(10) When at least double judicial costs are awarded;
(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.