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road, right of way, and barrio site, but excluding the portion or portions retained by respondent as owner-cultivator. The trial court is hereby *DIRECTED* to use the formula prescribed by DAR A.O. No. 13, as amended, which imposed a 6% interest, compounded annually, from the date of the compensable taking on October 21, 1972, until December 31, 2006; and thereafter, at the rate of 12% per annum, until full payment is made.

No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and *Velasco, Jr., JJ.,* concur.

THIRD DIVISION

[G.R. No. 158907. February 12, 2007]

EDUARDO B. OLAGUER, *petitioner, vs.* **EMILIO PURUGGANAN, JR. and RAUL LOCSIN,** *respondents.*

SYLLABUS

1. CIVIL LAW; AGENCY; POWER OF ATTORNEY; THE INSTRUMENT SHOULD ALWAYS BE DEEMED TO GIVE SUCH POWERS AS ESSENTIAL OR USUAL IN EFFECTUATING THE EXPRESS POWERS.— 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

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with its general intent or predominant purpose. Furtheremore, the instrument should always be deemed to give such powers as essential or usual in effectuating the express powers.

2. ID.; ID.; ID.; ID.; DEFINING THE TERMS "ABSENCE" AND "INCAPACITY" BY THEIR EVERYDAY USAGE MAKES FOR A REASONABLE CONSTRUCTION, AS IN CASE AT BAR.— On the other hand, defining the terms "absence" and "incapacity" by their everyday usage makes for a reasonable construction, that is, "the state of not being present" and the "inability to act," given the context that the SPA authorizes the agents to attend stockholders' meetings and vote in behalf of petitioner, to sell the shares of stock, and other related acts. This construction covers the situation wherein petitioner was arrested and detained. This much is admitted by petitioner in his testimony.

3. ID.; ID.; ID.; USE OF WORD "AND" IN A SERIES OF ACTS ENUMERATED SHOWS AGENTS WERE AUTHORIZED TO PERFORM SUCH ACTS NOT IN A LIMITED CAPACITY, OTHERWISE "ONLY FOR," "FOR THE PURPOSE OF," "IN ORDER TO" AND SUCH SIMILAR TERMS WOULD HAVE BEEN USED.— Petitioner's contention that the shares may only be sold for the sole purpose of applying the proceeds of the sale to the satisfaction of petitioner's subsisting obligations to the company is far-fetched. The construction, which will carry out the purpose, is that which should be applied. Petitioner had not submitted evidence that he was in debt with Businessday at the time he had executed the SPA. Nor could he have considered incurring any debts since he admitted that, at the time of its execution, he was concerned about his possible arrest, death and disappearance. The language of the SPA clearly enumerates, *as among those acts that the agents were authorized to do,* the act of applying the proceeds of the sale of the shares to any obligations petitioner might have against the Businessday group of companies. This interpretation is supported by the use of the word "and" in enumerating the authorized acts, instead of phrases such as "only for," "for the purpose of," "in order to" or any similar terms to indicate that the petitioner intended that the SPA be used only for a limited purpose, that of paying any liabilities with the Businessday group of companies.

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4. ID.; ID.; ID.; 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.— Secondly, petitioner argued that the records failed to show that he gave his consent to the sale of the shares to respondent Locsin for the price of ₱600,000.00. This argument is unsustainable. Petitioner received from respondent Locsin, through his wife and in-laws, the installment payments for a total of ₱600,000.00 from 1980 to 1982, without any protest or complaint. It was only four years after 1982 when petitioner demanded the return of the shares. The petitioner's claim that he did not instruct respondent Locsin to deposit the money in the bank accounts of his in-laws fails to prove that petitioner did not give his consent to the sale since respondent Locsin was authorized, under the SPA, to negotiate the terms and conditions of the sale including the manner of payment. Moreover, had respondent Locsin given the proceeds directly to the petitioner, as the latter suggested in this petition, the proceeds were likely to have been included among petitioner's properties which were confiscated by the military. Instead, respondent Locsin deposited the money in the bank accounts of petitioner's in-laws, and consequently, assured that the petitioner's wife received these amounts. Article 1882 of the Civil Code provides that the limits of an agent's authority shall not considered exceeded should it have been performed in a manner more advantageous to the principal than that specified by him.

5. ID.; DONATIONS; FOR ANY AMOUNT EXCEEDING ₱5,000.00, DONATION AND ACCEPTANCE HAVE TO BE MADE IN WRITING, OTHERWISE THE DONATION WILL BE VOID.— Granting that petitioner was able to prove his allegations, such an act of gratuity, on the part of Businessday in favor of petitioner, would be void. An arrangement whereby petitioner will receive "salaries" for work he will not perform, which is not a demandable debt since petitioner was on an extended leave of absence, constitutes a donation under Article 726 of the Civil Code. Under Article 748 of the Civil Code, if the value of the personal property donated exceeds ₱5,000.00, the donation and the acceptance shall have to be made in writing. Otherwise, the donation will be void. In the

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present case, petitioner admitted in his testimony that such arrangement was not made in writing and, hence, is void.

6. ID.; AGENCY; PROHIBITION AGAINST AGENTS PURCHASING PROPERTY IN THEIR HANDS FOR SALE DOES NOT APPLY WHERE THE PRINCIPAL CONSENTS TO THE SALE OF THE PROPERTY IN THE HANDS OF THE AGENT, AS IN CASE AT BAR.— 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 consent to the sale of the property in the hands of the agent or administrator. In the present case, the parties have conflicting allegations. While respondent Locsin averred that petitioner had permitted him to purchase petitioner's shares, petitioner vehemently denies having known of the transaction. However, records show that petitioner's position is less credible than that taken by respondent Locsin given petitioner's contemporaneous and subsequent acts. In 1980, when Fernando returned a stock certificate she borrowed from the petitioner, it was marked "cancelled." Although the petitioner alleged that he was furious when he saw the word cancelled, he had not demanded the issuance of a new certificate in his name. Instead of having been put on his guard, petitioner remained silent over this obvious red flag and continued receiving, through his wife, payments which totaled to the aggregate amount of the shares of stock valued at par. When the payments stopped, no demand was made by either petitioner or his wife for further payments. From the foregoing, it is clear that petitioner knew of the transaction, agreed to the purchase price of ₱600,000.00 for the shares of stock, and had in fact facilitated the implementation of the terms of the payment by providing respondent Locsin, through petitioner's wife, with the information on the bank accounts of his in-laws. Petitioner's wife and his son even provided receipts for the payments that were made to them by respondent Locsin, a practice that bespeaks of an onerous transaction and not an act of gratuity.

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7. MERCANTILE LAW; CORPORATION CODE; SECTION 63 OF CORPORATION CODE ON CERTIFICATE OF STOCK AND TRANSFER OF SHARES; RULE CANNOT BE APPLIED IN CASE AT BAR WITHOUT CAUSING INJUSTICE SOUGHT TO BE AVOIDED.— Section 63 of the Corporation Code provides that: Sec. 63. Certificate of stock and transfer of shares.— x x x Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, *except as between the parties,* until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred. The aforequoted provision furnishes the procedure for the transfer of shares — the delivery of the endorsed certificates, in order to prevent the fraudulent transfer of shares of stock. However, this rule cannot be applied in the present case without causing the injustice sought to be avoided. As had been amply demonstrated, there was a valid sale of stocks. Petitioner's failure to deliver the shares to their rightful buyer is a breach of his duty as a seller, which he cannot use to unjustly profit himself by denying the validity of such sale. Thus, while the manner of the cancellation of petitioner's certificate of stock and the issuance of the new certificate in favor of respondent Locsin was highly irregular, we must, nonetheless, declare the validity of the sale between the parties. Neither does this irregularity prove that the transfer was fraudulent. In his testimony, petitioner admitted that they had intended to conceal his being a stockholder of Businessday. The cancellation of his name from the stock and transfer book, even before the shares were actually sold, had been done with his consent. As earlier explained, even the subsequent sale of the shares in favor of Locsin had been done with his consent.

APPEARANCES OF COUNSEL

Castillo Laman Tan Pantaleon and San Jose for petitioner.
Tan Acut and Lopez Law Office for R. Locsin.
Melanio L. Zoreta for Dr. E.A. Puruganan, Jr.

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D E C I S I O N

CHICO-NAZARIO, *J.*:

This is a Petition for Review on *Certiorari*, under Rule 45 of the Rules of Court, assailing the Decision,[1] dated 30 June 2003, promulgated by the Court of Appeals, affirming the Decision of the Regional Trial Court, dated 26 July 1995, dismissing the petitioner's suit.

The parties presented conflicting accounts of the facts.

EDUARDO B. OLAGUER'S VERSION

Petitioner Eduardo B. Olaguer alleges that he was the owner of 60,000 shares of stock of Businessday Corporation (Businessday) with a total par value of ₱600,000.00, with Certificates of Stock No. 005, No. 028, No. 034, No. 070, and No. 100.[2] At the time he was employed with the corporation as Executive Vice-President of Businessday, and President of Businessday Information Systems and Services and of Businessday Marketing Corporation, petitioner, together with respondent Raul Locsin (Locsin) and Enrique Joaquin (Joaquin), was active in the political opposition against the Marcos dictatorship.[3] Anticipating the possibility that petitioner would be arrested and detained by the Marcos military, Locsin, Joaquin, and Hector Holifeña had an unwritten agreement that, in the event that petitioner was arrested, they would support the petitioner's family by the continued payment of his salary.[4] Petitioner also executed a Special Power of Attorney (SPA), on 26 May 1979, appointing as his attorneys-in-fact Locsin, Joaquin and Hofileña for the purpose of selling or transferring petitioner's shares of stock with Businessday. During the trial, petitioner testified that he

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[1] Penned by Associate Justice Ruben T. Reyes with Associate Justices Elvi John S. Assuncion and Lucas P. Bersamin, concurring; *rollo*, pp. 70-86.

[2] *Id.* at 71.

[3] *Id.* at 18-19.

[4] *Id.* at 19.

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agreed to execute the SPA in order to cancel his shares of stock, even before they are sold, for the purpose of concealing that he was a stockholder of Businessday, in the event of a military crackdown against the opposition.[5] The parties acknowledged the SPA before respondent Emilio Purugganan, Jr., who was then the Corporate Secretary of Businessday, and at the same time, a notary public for Quezon City.[6]

On 24 December 1979, petitioner was arrested by the Marcos military by virtue of an Arrest, Search and Seizure Order and detained for allegedly committing arson. During the petitioner's detention, respondent Locsin ordered fellow respondent Purugganan to cancel the petitioner's shares in the books of the corporation and to transfer them to respondent Locsin's name.[7]

As part of his scheme to defraud the petitioner, respondent Locsin sent Rebecca Fernando, an employee of Businessday, to Camp Crame where the petitioner was detained, to pretend to borrow Certificate of Stock No. 100 for the purpose of using it as additional collateral for Businessday's then outstanding loan with the National Investment and Development Corporation. When Fernando returned the borrowed stock certificate, the word "cancelled" was already written therein. When the petitioner became upset, Fernando explained that this was merely a mistake committed by respondent Locsin's secretary.[8]

During the trial, petitioner also agreed to stipulate that from 1980 to 1982, Businessday made regular deposits, each amounting to ₱10,000.00, to the Metropolitan Bank and Trust Company accounts of Manuel and Genaro Pantig, petitioner's in-laws. The deposits were made on every 15th and 30th of the month.[9]

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[5] Records, Volume 1, pp. 217-218.

[6] *Rollo,* p. 19.

[7] *Id*. at 20.

[8] *Id*. at 20-21.

[9] Records, Volume II, pp. 519-520.

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Petitioner alleged that these funds consisted of his monthly salary, which Businessday agreed to continue paying after his arrest for the financial support of his family.[10] After receiving a total of ₱600,000.00, the payments stopped. Thereafter, respondent Locsin and Fernando went to ask petitioner to endorse and deliver the rest of his stock certificates to respondent Locsin, but petitioner refused.[11]

On 16 January 1986, petitioner was finally released from detention. He then discovered that he was no longer registered as stockholder of Businessday in its corporate books. He also learned that Purugganan, as the Corporate Secretary of Businessday, had already recorded the transfer of shares in favor of respondent Locsin, while petitioner was detained. When petitioner demanded that respondents restore to him full ownership of his shares of stock, they refused to do so. On 29 July 1986, petitioner filed a Complaint before the trial court against respondents Purugganan and Locsin to declare as illegal the sale of the shares of stock, to restore to the petitioner full ownership of the shares, and payment of damages.[12]

RESPONDENT RAUL LOCSIN'S VERSION

In his version of the facts, respondent Locsin contended that petitioner approached him and requested him to sell, and, if necessary, buy petitioner's shares of stock in Businessday, to assure support for petitioner's family in the event that something should happen to him, particularly if he was jailed, exiled or forced to go underground.[13] At the time petitioner was employed with Businessday, respondent Locsin was unaware that petitioner was part of a group, Light-a-Fire Movement, which actively sought the overthrow of the Marcos government through an armed struggle.[14] He denied that he made any arrangements

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[10] *Rollo*, pp. 21-22.

[11] *Id*. at 23.

[12] *Id*. at 23-24.

[13] *Id*. at 925-926.

[14] *Id*. at 927-928.

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to continue paying the petitioner's salary in the event of the latter's imprisonment.[15]

When petitioner was detained, respondent Locsin tried to sell petitioner's shares, but nobody wanted to buy them. Petitioner's reputation as an oppositionist resulted in the poor financial condition of Businessday and discouraged any buyers for the shares of stock.[16] In view of petitioner's previous instructions, respondent Locsin decided to buy the shares himself. Although the capital deficiency suffered by Businessday caused the book value of the shares to plummet below par value, respondent Locsin, nevertheless, bought the shares at par value.[17] However, he had to borrow from Businessday the funds he used in purchasing the shares from petitioner, and had to pay the petitioner in installments of ₱10,000.00 every 15th and 30th of each month.[18]

The trial court in its Decision, dated 26 July 1995, dismissed the Complaint filed by the petitioner. It ruled that the sale of shares between petitioner and respondent Locsin was valid. The trial court concluded that petitioner had intended to sell the shares of stock to anyone, including respondent Locsin, in order to provide for the needs of his family should he be jailed or forced to go underground; and that the SPA drafted by the petitioner empowered respondent Locsin, and two other agents, to sell the shares for such price and under such terms and conditions that the agents may deem proper. It further found that petitioner consented to have respondent Locsin buy the shares himself. It also ruled that petitioner, through his wife, received from respondent Locsin the amount of ₱600,000.00 as payment for the shares of stock.[19] The dispositive part of the trial court's Decision reads:

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[15] *Id.* at 928.

[16] *Id.* at 929-930.

[17] *Id.* at 930-931.

[18] *Id.* at 933.

[19] CA *rollo*, pp. 818-822.

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WHEREFORE, for failure of the [herein petitioner] to prove by preponderance of evidence, his causes of action and of the facts alleged in his complaint, the instant suit is hereby ordered DISMISSED, without pronouncement as to costs.

[Herein respondents'] counterclaims, however, are hereby DISMISSED, likewise, for dearth of substantial evidentiary support.[20]

On appeal, the Court of Appeals affirmed the Decision of the trial court that there was a perfected contract of sale.[21] It further ruled that granting that there was no perfected contract of sale, petitioner, nevertheless, ratified the sale to respondent Locsin by his receipt of the purchase price, and his failure to raise any protest over the said sale.[22] The Court of Appeals refused to credit the petitioner's allegation that the money his wife received constituted his salary from Businessday since the amount he received as his salary, ₱24,000.00 per month, did not correspond to the amount he received during his detention, ₱20,000.00 per month (deposits of ₱10,000.00 on every 15th and 30th of each month in the accounts of the petitioner's in-laws). On the other hand, the total amount received, ₱600,000.00, corresponds to the aggregate par value of petitioner's shares in Businessday. Moreover, the financial condition of Businessday prevented it from granting any form of financial assistance in favor of the petitioner, who was placed in an indefinite leave of absence, and, therefore, not entitled to any salary.[23]

The Court of Appeals also ruled that although the manner of the cancellation of the petitioner's certificates of stock and the subsequent issuance of the new certificate of stock in favor of respondent Locsin was irregular, this irregularity will not relieve petitioner of the consequences of a consummated sale.[24]

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[20] Records, Vol. II, p. 822.

[21] *Rollo*, pp. 76-79.

[22] *Id.* at 80.

[23] *Id.* at 81-82.

[24] *Id.* at 83-84.

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Finally, the Court of Appeals affirmed the Decision of the trial court disallowing respondent Locsin's claims for moral and exemplary damages due to lack of supporting evidence.[25]

Hence, the present petition, where the following issues were raised:

I.

THE APPELLATE COURT ERRED IN RULING THAT THERE WAS A PERFECTED CONTRACT OF SALE BETWEEN PETITIONER AND MR. LOCSIN OVER THE SHARES;

II.

THE APPELLATE COURT ERRED IN RULING THAT PETITIONER CONSENTED TO THE ALLEGED SALE OF THE SHARES TO MR. LOCSIN;

III.

THE APPELLATE COURT ERRED IN RULING THAT THE AMOUNTS RECEIVED BY PETITIONER'S IN LAWS WERE NOT PETITIONER'S SALARY FROM THE CORPORATION BUT INSTALLMENT PAYMENTS FOR THE SHARES;

IV.

THE APPELLATE COURT ERRED IN RULING THAT MR. LOCSIN WAS THE PARTY TO THE ALLEGED SALE OF THE SHARES AND NOT THE CORPORATION; AND

V.

THE APPELLATE COURT ERRED IN RULING THAT THE ALLEGED SALE OF THE SHARES WAS VALID ALTHOUGH THE CANCELLATION OF THE SHARES WAS IRREGULAR.[26]

The petition is without merit.

The first issue that the petitioner raised is that there was no valid sale since respondent Locsin exceeded his authority under

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[25] *Id*. at 85.

[26] *Id*. at 29-30.

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the SPA[27] issued in his, Joaquin and Holifena's favor. He alleged that the authority of the afore-named agents to sell the shares of stock was limited to the following conditions: (1) in the event of the petitioner's absence and incapacity; and (2) for the limited purpose of applying the proceeds of the sale to the satisfaction of petitioner's subsisting obligations with the companies adverted to in the SPA.[28]

Petitioner sought to impose a strict construction of the SPA by limiting the definition of the word "absence" to a condition wherein "a person disappears from his domicile, his whereabouts being unknown, without leaving an agent to administer his

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[27] *Id*. at 199-200. The Special Power of Attorney executed by petitioner on 26 May 1979 reads:

KNOW ALL MEN BY THESE PRESENTS:

THAT I, EDUARDO B. OLAGUER, of legal age, xxx, have named, appointed and constituted, and by these presents, do hereby name, constitute and appoint Messers. RAUL L. LOCSIN, ENRIQUE M. JOAQUIN, and HECTOR HOFILEÑA, all of legal age and with business address c/o Businessday Corporation, 113 West Avenue, Quezon City, jointly and individually, to be my true and lawful attorneys-in-fact, for me and in my name, place and stead, in the event of myabsence or incapacity, to do or perform any or all of the following acts and things, to wit:

1. For me and in my stead to attend and vote my stock at any stockholders' meeting of the Businessday Group of Companies, consisting of the Businessday Corporation, Businessday Information Systems & Services, Inc., and Businessday Marketing Corporation, of all of which I am a stockholder, and to take such action as may be in my interest as fully as I could do if personally present, and for this purpose to sign and execute any proxies or other instruments in my name or on my behalf, appointing my said attorneys, or any one of them, or any other person as my proxy or proxies;

2. To sell, assign, transfer, endorse and deliver, for such price or prices, and under such terms and conditions, as my said attorneys-in-fact may deem proper, any and all shares of stock now held or which may hereafter be held by me in the aforesaid companies; to receive payment or payments from the buyer; buyers thereof; to make, execute and deliver receipts for such payments; and to apply the net proceeds of any such sale, assignment and transfer to the liquidation of and satisfaction for any and all obligations that I may have with the said companies.

[28] *Rollo*, p. 31.

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property,"[29] citing Article 381 of the Civil Code, the entire provision hereunder quoted:

> ART 381. When a person disappears from his domicile, his whereabouts being unknown, and without leaving an agent to administer his property, the judge, at the instance of an interested party, a relative, or a friend, may appoint a person to represent him in all that may be necessary.
>
> This same rule shall be observed when under similar circumstances the power conferred by the absentee has expired.

Petitioner also puts forward that the word "incapacity" would be limited to mean "minority, insanity, imbecility, the state of being deaf-mute, prodigality and civil interdiction."[30] He cites Article 38 of the Civil Code, in support of this definition, which is hereunder quoted:

> ART. 38 Minority, insanity or imbecility, the state of being a deaf-mute, prodigality and civil interdiction are mere restrictions on capacity to act, and do not exempt the incapacitated person, from certain obligations, as when the latter arise from his acts or from property relations, such as easements.

Petitioner, thus, claims that his arrest and subsequent detention are not among the instances covered by the terms "absence or incapacity," as provided under the SPA he executed in favor of respondent Locsin.

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

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[29] *Id*.

[30] *Id*. at 31-32.

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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.[31]

In the present case, limiting the definitions of "absence" to that provided under Article 381 of the Civil Code and of "incapacity" under Article 38 of the same Code negates the effect of the power of attorney by creating absurd, if not impossible, legal situations. Article 381 provides the necessarily stringent standards that would justify the appointment of a representative by a judge. Among the standards the said article enumerates is that no agent has been appointed to administer the property. In the present case, petitioner himself had already authorized agents to do specific acts of administration and thus, no longer necessitated the appointment of one by the court. Likewise, limiting the construction of "incapacity" to "minority, insanity, imbecility, the state of being a deaf-mute, prodigality and civil interdiction," as provided under Article 38, would render the SPA ineffective. Article 1919(3) of the Civil Code provides that the death, civil interdiction, insanity or insolvency of the principal or of the agent extinguishes the agency. It would be equally incongruous, if not outright impossible, for the petitioner to require himself to qualify as a minor, an imbecile, a deaf-mute, or a prodigal before the SPA becomes operative. In such cases, not only would he be prevented from appointing an agent, he himself would be unable to administer his property.

On the other hand, defining the terms "absence" and "incapacity" by their everyday usage makes for a reasonable construction, that is, "the state of not being present" and the "inability to act," given the context that the SPA authorizes the agents to attend stockholders' meetings and vote in behalf of petitioner, to sell the shares of stock, and other related acts. This construction covers the situation wherein petitioner was arrested and detained. This much is admitted by petitioner in his testimony.[32]

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[31] 3 Am. Jur. 2d, 536-537.

[32] Records, Volume I, p. 188.

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Petitioner's contention that the shares may only be sold for the sole purpose of applying the proceeds of the sale to the satisfaction of petitioner's subsisting obligations to the company is far-fetched. The construction, which will carry out the purpose, is that which should be applied. Petitioner had not submitted evidence that he was in debt with Businessday at the time he had executed the SPA. Nor could he have considered incurring any debts since he admitted that, at the time of its execution, he was concerned about his possible arrest, death and disappearance. The language of the SPA clearly enumerates, *as among those acts that the agents were authorized to do*, the act of applying the proceeds of the sale of the shares to any obligations petitioner might have against the Businessday group of companies. This interpretation is supported by the use of the word "and" in enumerating the authorized acts, instead of phrases such as "only for," "for the purpose of," "in order to" or any similar terms to indicate that the petitioner intended that the SPA be used only for a limited purpose, that of paying any liabilities with the Businessday group of companies.

Secondly, petitioner argued that the records failed to show that he gave his consent to the sale of the shares to respondent Locsin for the price of ₱600,000.00. This argument is unsustainable. Petitioner received from respondent Locsin, through his wife and in-laws, the installment payments for a total of ₱600,000.00 from 1980 to 1982, without any protest or complaint. It was only four years after 1982 when petitioner demanded the return of the shares. The petitioner's claim that he did not instruct respondent Locsin to deposit the money to the bank accounts of his in-laws fails to prove that petitioner did not give his consent to the sale since respondent Locsin was authorized, under the SPA, to negotiate the terms and conditions of the sale including the manner of payment. Moreover, had respondent Locsin given the proceeds directly to the petitioner,

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Q: In other words Mr. Witness, it is not correct to conclude that when you executed that special power of attorney, you contemplated your possible arrest at that time?

A: Arrest, death and disappearance.

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as the latter suggested in this petition, the proceeds were likely to have been included among petitioner's properties which were confiscated by the military. Instead, respondent Locsin deposited the money in the bank accounts of petitioner's in-laws, and consequently, assured that the petitioner's wife received these amounts. 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.

In addition, petitioner made two inconsistent statements when he alleged that (1) respondent Locsin had not asked the petitioner to endorse and deliver the shares of stock, and (2) when Rebecca Fernando asked the petitioner to endorse and deliver the certificates of stock, but petitioner refused and even became upset.[33] In either case, both statements only prove that petitioner refused to honor his part as seller of the shares, even after receiving payments from the buyer. Had the petitioner not known of or given his consent to the sale, he would have given back the payments as soon as Fernando asked him to endorse and deliver the certificates of stock, an incident which unequivocally confirmed that the funds he received, through his wife and his in-laws, were intended as payment for his shares of stocks. Instead, petitioner held on to the proceeds of the sale after it had been made clear to him that respondent Locsin had considered the ₱600,000.00 as payment for the shares, and asked petitioner, through Fernando, to endorse and deliver the stock certificates for cancellation.

As regards the third issue, petitioner's allegation that the installment payments he was adjudged to have received for the shares were actually salaries which Businessday promised to pay him during his detention is unsupported and implausible. Petitioner received ₱20,000.00 per month through his in-laws; this amount does not correspond to his monthly salary at ₱24,000.00.[34] Nor does the amount received correspond to

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[33] *Rollo*, pp. 34, 1929.

[34] Records, Volume I, p. 196. Petitioner confirmed the Court of Appeal's factual finding that he received a monthly salary of ₱24,000.00 when he testified

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the amount which Businessday was supposed to be obliged to pay petitioner, which was only ₱45,000.00 to ₱60,000.00 per annum.[35] Secondly, the petitioner's wife did not receive funds from respondent Locsin or Businessday for the entire duration of petitioner's detention. Instead, when the total amount received by the petitioner reached the aggregate amount of his shares at par value — ₱600,000.00 — the payments stopped. Petitioner even testified that when respondent Locsin denied knowing the petitioner soon after his arrest, he believed respondent Locsin's commitment to pay his salaries during his detention to be nothing more than lip-service.[36]

Granting that petitioner was able to prove his allegations, such an act of gratuity, on the part of Businessday in favor of petitioner, would be void. An arrangement whereby petitioner will receive "salaries" for work he will not perform, which is not a demandable debt since petitioner was on an extended leave of absence, constitutes a donation under Article 726[37] of the Civil Code. Under Article 748 of the Civil Code, if the value of the personal property donated exceeds ₱5,000.00, the donation and the acceptance shall have to be made in writing. Otherwise, the donation will be void. In the present case, petitioner admitted in his testimony[38] that such arrangement was not made in writing and, hence, is void.

The fact that some of the deposit slips and communications made to petitioner's wife contain the phrase "household expenses" does not disprove the sale of the shares. The money was being

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receiving an equivalent amount estimated at ₱250,000.00 to ₱300,000.00 per annum.

[35] *Id.* at 194-195.

[36] *Id.* at 240.

[37] ART. 726. When a person gives to another a thing or right on account of the latter's merits or of the services rendered by him to the donor, provided they do not constitute a demandable debt, or when the gift imposes upon the donee a burden which is less than the value of the thing given, there is also a donation.

[38] Records, Volume I, p. 243.

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deposited to the bank accounts of the petitioner's in-laws, and not to the account of the petitioner or his wife, precisely because some of his property had already been confiscated by the military. Had they used the phrase "sale of shares," it would have defeated the purpose of not using their own bank accounts, which was to conceal from the military any transaction involving the petitioner's property.

Petitioner raised as his fourth issue that granting that there was a sale, Businessday, and not respondent Locsin, was the party to the transaction. The curious facts that the payments were received on the 15th and 30th of each month and that the payor named in the checks was Businessday, were adequately explained by respondent Locsin. Respondent Locsin had obtained cash advances from the company, paid to him on the 15th and 30th of the month, so that he can pay petitioner for the shares. To support his claim, he presented Businessday's financial records and the testimony of Leo Atienza, the Company's Accounting Manager. When asked why the term "shares of stock" was used for the entries, instead of "cash advances," Atienza explained that the term "shares of stock" was more specific rather than the broader phrase "cash advances."[39] More to the point, had the entries been for "shares of stock," the issuance of shares should have been reflected in the stock and transfer books of Businessday, which the petitioner presented as evidence. Instead the stock and transfer books reveal that the increase in respondent Locsin's shares was a result of the cancellation and transfer of petitioner's shares in favor of respondent Locsin.

Petitioner alleges that the purported sale between himself and respondent Locsin of the disputed shares of stock is void since it contravenes Article 1491 of the Civil Code, which provides that:

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:

x x x x x x x x x

[39] Records, TSN Duplicate, p. 2087.

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

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.[40] 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.[41]

In the present case, the parties have conflicting allegations. While respondent Locsin averred that petitioner had permitted him to purchase petitioner's shares, petitioner vehemently denies having known of the transaction. However, records show that petitioner's position is less credible than that taken by respondent Locsin given petitioner's contemporaneous and subsequent acts.[42] In 1980, when Fernando returned a stock certificate she borrowed from the petitioner, it was marked "cancelled." Although the petitioner alleged that he was furious when he saw the word cancelled, he had not demanded the issuance of a new certificate in his name. Instead of having been put on his guard, petitioner remained silent over this obvious red flag and continued receiving, through his wife, payments which totalled to the aggregate amount of the shares of stock valued at par. When the payments stopped, no demand was made by either petitioner or his wife for further payments.

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[40] 3 Am. Jur. 2d, pp. 727-728.

[41] *Distajo v. Court of Appeals*, 393 Phil. 426, 433 (2000); *Pelayo v. Perez*, G.R. No. 141323, 8 June 2005, 459 SCRA 475, 487-488.

[42] Article 1371 of the Civil Code provides that:

ART. 1371. In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered.

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From the foregoing, it is clear that petitioner knew of the transaction, agreed to the purchase price of ₱600,000.00 for the shares of stock, and had in fact facilitated the implementation of the terms of the payment by providing respondent Locsin, through petitioner's wife, with the information on the bank accounts of his in-laws. Petitioner's wife and his son even provided receipts for the payments that were made to them by respondent Locsin,[43] a practice that bespeaks of an onerous transaction and not an act of gratuity.

Lastly, petitioner claims that the cancellation of the shares and the subsequent transfer thereof were fraudulent, and, therefore, illegal. In the present case, the shares were transferred in the name of the buyer, respondent Locsin, without the petitioner delivering to the buyer his certificates of stock. Section 63 of the Corporation Code provides that:

> Sec.63. Certificate of stock and transfer of shares.— x x x Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, *except as between the parties*, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred. (Emphasis provided.)

The aforequoted provision furnishes the procedure for the transfer of shares — the delivery of the endorsed certificates, in order to prevent the fraudulent transfer of shares of stock. However, this rule cannot be applied in the present case without causing the injustice sought to be avoided. As had been amply demonstrated, there was a valid sale of stocks. Petitioner's failure to deliver the shares to their rightful buyer is a breach of his duty as a seller, which he cannot use to unjustly profit himself by denying the validity of such sale. Thus, while the manner of the cancellation of petitioner's certificates of stock and the issuance of the new certificates in favor of respondent

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[43] TSN, 28 January 1992, pp. 2208-2209.

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Locsin was highly irregular, we must, nonetheless, declare the validity of the sale between the parties. Neither does this irregularity prove that the transfer was fraudulent. In his testimony, petitioner admitted that they had intended to conceal his being a stockholder of Businessday.[44] The cancellation of his name from the stock and transfer book, even before the shares were actually sold, had been done with his consent. As earlier explained, even the subsequent sale of the shares in favor of Locsin had been done with his consent.

IN VIEW OF THE FOREGOING, the instant Petition is *DENIED*. This Court *AFFIRMS* the assailed Decision of the Court of Appeals, promulgated on 30 June 2003, affirming the validity of the sale of the shares of stock in favor of respondent Locsin. No costs.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, and *Callejo, Sr., JJ.,* concur.

Nachura, J., on leave.

SECOND DIVISION

[G.R. No. 159950. February 12, 2007]

JOEL P. GONZALES, JR., *petitioner, vs.* **THE PEOPLE OF THE PHILIPPINES,** *respondent.*

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[44] Records, Volume I, pp. 217-218.