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WHEREFORE, the November 20, 2013 Decision No. 2013-199 of the Commission on Audit is **REVERSED** and **SET ASIDE**. The Request for Relief from Money Accountability of petitioner Dr. Consolacion S. Callang is **GRANTED**.

SO ORDERED.

Carpio, Peralta, del Castillo, Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, and *Carandang, JJ.*, concur.

Bersamin, C. J., on official business.

Jardeleza, J., no part, in view of prior participation as Solicitor General.

Reyes, Jr., A., J., on leave.

SECOND DIVISION

[G.R. No. 187262. January 10, 2019]

ENGINEERING GEOSCIENCE, INC., *petitioner, vs.* **PHILIPPINE SAVINGS BANK,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FO REVIEW ON *CERTIORARI*; A PETITION FOR REVIEW UNDER RULE 45 OF THE RULES OF COURT SHOULD COVER ONLY QUESTIONS OF LAW; EXCEPTIONS.— As a general rule, a petition for review on certiorari under Rule 45 of the Rules of Court should cover only questions of law. x x x The general rule admits of exceptions: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting;

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(6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

2. **MERCANTILE LAW; CORPORATION CODE; BOARD OF DIRECTORS; THE GENERAL RULE IS THAT, IN THE ABSENCE OF AUTHORITY FROM THE BOARD OF DIRECTORS, NO PERSON, NOT EVEN ITS OFFICERS, CAN VALIDLY BIND A CORPORATION.—** A corporation, as a juridical entity, acts through its board of directors. The board exercises almost all corporate powers, lays down all corporate business policies, and is responsible for the efficiency of management. The general rule is that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation.

3. **CIVIL LAW; AGENCY; DOCTRINE OF APPARENT AUTHORITY; ACTS AND CONTRACTS OF THE AGENT, AS ARE WITHIN THE APPARENT SCOPE OF AUTHORITY CONFERRED ON HIM, ALTHOUGH NO ACTUAL AUTHORITY TO DO SUCH ACTS OR MAKE SUCH CONTRACTS HAS BEEN CONFERRED, BIND THE PRINCIPAL; CASE AT BAR.—** [T]he records of the case show no evidence that EGI authorized Santos to file a Complaint and enter into a Compromise Agreement on its behalf. Neither was there any showing that EGI's By-Laws authorize its President to do such acts. EGI's grant of authority to Santos, however, falls under the doctrine of apparent authority. Under this doctrine, acts and contracts of the agent, as are within the apparent scope of the authority conferred on him, although no actual authority to do such acts or to make such contracts has been conferred, bind the principal. Furthermore, the principal's liabilityis limited only to third persons who have been led reasonably to believe by the conduct of the principal that such actual authority exists, although none was actually given. Apparent authority is determined only by the acts of the principal and not by the acts of the agent.

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APPEARANCES OF COUNSEL

Nemesio R. Briones & Pacito Pineda, Jr. for petitioner.
Ysmael Salgado Masangya Gordove Avila And Associates for respondent.

D E C I S I O N

CARPIO, *J.*:

The Case

G.R. No. 187262 is a petition[1] filed by Engineering Geoscience, Inc. (EGI) against Philippine Savings Bank (PSBank) assailing the Decision[2] promulgated on 13 November 2008 and the Resolution[3] promulgated on 19 March 2009 by the Court of Appeals (CA) in CA-G.R. SP No. 102885.

The CA granted PSBank's petition for certiorari and prohibition, and annulled and set aside the Orders dated 24 August 2007[4] and 23 January 2008[5] of Branch 80, Regional Trial Court, Quezon City (trial court) in Civil Case No. Q-91-9150. Accordingly, the CA reinstated the trial court's Decision dated 12 January 1993.[6]

The Facts

The present case has been before the CA twice. The CA summarized the events which occurred before PSBank filed a petition for certiorari and prohibition before it:

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[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] *Rollo*, pp. 44-74. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia concurring.

[3] *Id*. at 76-78. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia concurring.

[4] *Id*. at 331-333. Penned by Pairing Judge Ma. Theresa Dela Torre-Yadao.

[5] *Id*. at 990-991. Penned by Judge Charito B. Gonzales.

[6] *Id*. at 139-142. Penned by Judge Efren N. Ambrosio.

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The present action stemmed from a *Complaint With Prayer For Writ Of Preliminary Injunction And Restraining Order* instituted by private respondent Engineering Geoscience, Inc. (EGI) against petitioner [PSBank] together with Metropolitan Bank & Trust Co., Inc. (MBTC), Manuela F. Lorenzo, Marino V. Cachero and Silverio P. Bernas, which seeks the annulment of its loan contract with [PSBank].

It appears that EGI obtained a loan from [PSBank] in the principal amount of Twenty Four Million Sixty Four Thousand (Php24,064,000.00) Pesos as evidenced by a Promissory Note dated February 14, 1990. To secure the loan, EGI, through its President, Jose Rolando Santos, executed a Real Estate Mortgage on February 13, 1990 in favor of [PSBank] over two parcels of land, more particularly described and covered by Transfer Certificate of Title Nos. 292874 and 249866. As agreed by the parties, the schedule of payment for said loan shall be as follows: (a) Php1,443,840.00 representing interest for two (2) quarters commencing on May 14, 1990 and three months thereafter; (b) Php1,850,626.00 (Principal and interest) quarterly for twenty six (26) quarters starting November 14, 1990 and every three (3) months thereafter.

EGI was only able to make partial payments on its loan as it fell due based on the above schedule of payment, and after paying a total amount of only Php3,223,192.91 or only half of the amortizations due amounting to Php6,588,932.00, EGI made no further payments to [PSBank] after its last payment made on November 29, 1990 in the amount of Php 160,000.00. Thus, [PSBank] invoked the acceleration clause under the promissory note and sent a demand letter dated February 11, 1991 demanding full payment of its loan obligation.

[PSBank's] demand letter went unheeded, prompting [PSBank] to file a petition for extra-judicial foreclosure of mortgage under Act No. 135 on May 21, 1991, with the Office of the Ex-Officio Sheriff, Regional Trial Court of Quezon City. The foreclosure sale was set on June 26, 1991 but the same did not push through on account of the *Complaint With Prayer For Writ Of Preliminary Injunction and Restraining Order*filed by EGI before the [trial court]. The [trial court] issued an Order dated August 26, 1991 granting EGI's prayer for issuance of writ of preliminary injunction and effectively enjoined [PSBank] from proceeding with the foreclosure sale.

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Before the case materialized into a full-blown trial, [PSBank] and EGI submitted a *Joint Motion For Approval Of Compromise Agreement* dated December 29, 1992, which was approved by the [trial court) in a Decision dated January 12, 1993, whereby the parties agreed as follows:

> 1). Plaintiff (EGI) expressly and unconditionally acknowledges its loan obligation to defendant Philippine Savings Bank (PABank) [sic] under the Promissory Note, Annex C-Complaint, which loan obligation is duly secured by a real estate mortgage on two (2) parcels of land, together with the improvements thereon, covered by Transfer Certificate of Title (TCT) Nos. 292874 and 249866 issued by the Register of Deeds of Quezon City as evidenced by the Real Estate Mortgage, Annex A-Complaint.
>
> 2). In full and final settlement of plaintiff's aforesaid obligation, plaintiff undertakes to pay PSBank the amount of Thirty Eight Million Two Thousand One Hundred Eighty-Two Pesos and Fifty Six Centavos (₱38,002,182.56). This amount of ₱38,002,182.56 is payable, in full, without interest, on or before 31 December 1993, subject to the provision of paragraph 4 below.
>
> 3). (a) In the event that the partial payments made by plaintiff should not reach the amount of ₱26,376,000.00 by 31 December 1993, the deadline for the payment of the obligation as stated in the preceding paragraph 2, plaintiff shall execute in favor of PSBank a Deed of Absolute Sale for the transfer and conveyance of the properties covered by TCT Nos. 292874 and 249866 for the amount of ₱26,376,000.00 as the agreed consideration.
>
> (b) To implement the foregoing sale, plaintiff irrevocably constitutes and appoints the Branch Clerk of Court, Regional Trial Court of Quezon City, Branch 80, as its attorney-in-fact to execute and deliver to PSBank the corresponding Deed of Absolute Sale and such other deeds as are necessary for the transfer in the name of PSBank of the titles to the properties now covered by TCT Nos. 292874 and 249866 as fully to all intents and purposes as if the deeds were directly executed and delivered by plaintiff.

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(c) With respect to the amount of ₱11,626,182.56 representing the net obligation of plaintiff, PSBank shall be entitled to the issuance of a writ of execution for the collection of the balance.

4). (a) In the event, however, that plaintiff's partial payment up to 31 December 1993 would reach the amount of ₱26,376,000.00, the period for the payment of the balance of ₱11,626,182.56 shall be automatically extended up to 31 December 1995 and this balance shall be payable under the following terms:

(i). The balance of ₱11,626,182.56 shall earn a fixed rate of interest of eighteen percent (18%) per annum;

(ii). The balance, together with the agreed interest, shall be payable in two (2) equal installments, the first installment amounting to ₱5,813,091.28 (principal) plus ₱2,092,712.86 (interest) or a total amount of ₱7,905,804.14 to be due and payable on 31 December 1994, and the second installment amounting to ₱5,812,091.28 (principal) plus ₱1,046,356.43 (interest) or a total amount of ₱6,859,447.71, to be due and payable on 31 December 1995.

(b) If the balance or any portion thereof be not paid when due, the parties agrees [sic] that the properties covered by TCT Nos. 292874 and 249866 shall be sold to public auction, for which purposes the parties authorize the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Quezon City to conduct a public auction for the sale of these properties.

(c) If the properties are sold at public auction for an amount which is less than the full amount of the obligation of P38,002,182.56, PSBank shall be entitled to recover the deficiency by means of writ of execution.

(d) If the properties are sold and PSBank is declared as the higest bidder, PSBank shall also be entitled to the issuance of a writ of possession without bond.

(5). In the event plaintiff defaults in the payment of the entire obligation or any of the installments indicated above, and a Deed of Absolute Sale over the properties is executed by plaintiff in favor of PSBank, plaintiff agrees to pay to the latter transfer and registration expenses in the amount of ₱1,900,000.00.

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(6). During the implementation of this Compromise Agreement and until one (1) year from the registration of the Certificate of Sale of the properties pursuant to par. 4(b) in favor of PSBank, the President of plaintiff corporation, Jose Rolando Santos, his immediate family and relatives, may continue to occupy, use and possess the properties without having to pay rentals or other charges to PSBank on account of such occupation, use and possession. In the event, however, that the said occupants refuse and fail to vacate the properties after the expiration of the one year period indicated above, PSBank is entitled to the issuance of a writ of possession to eject them and place PSBank in physical possession of the properties.

(7). Plantiff agrees to pay PSBank and Metrobank, by way of attorney's fees, the amount of ₱50,000.00 each through postdated checks. (8). Upon complete payment and full compliance by plaintiff [with] all the terms and conditions herein agreed upon, defendant shall immediately return to plaintiff, after the payment of the last installment herein stipulated, the owner's duplicate of TCT Nos. 292874 and 249866, together with the corresponding Release or Cancellation of Real Estate Mortgage.

(9). In consideration of the parties' mutual covenants and undertakings, the parties agree to waive, abandon, and renounce their respective claims and counterclaims against each other in the above-captioned case.

(10). The parties' representatives signing this Compromise Agreement expressly warrant that they have been duly authorized to represent and bind their respective corporations.

Notwithstanding the above court-approved compromise agreement, EGI still failed to comply with the terms and conditions thereof. Thus, petitioner [PSBank] was constrained to file a *Motion for Execution* of the [trial court's] *Decision* on their compromise agreement. Accordingly, a *Writ of Execution* dated July 18, 1994 was issued in favor of [PSBank]. However, before the same could be served, the [trial court] issued an Order dated August 31, 1994, stating:

Considering that the Court needs to be enlightened and clarified on certain matters relative to the Writ of Execution, meanwhile, let the implementation of the same be held in abeyance until further orders from this Court.

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In the meanwhile, set this case for conference on SEPTEMBER 14, 1994 at 8:30 a.m. Notify all the parties and their counsels.

SO ORDERED.

In turn, [PSBank] filed an urgent motion to set aside the above Order, arguing that the terms and conditions of the parties' compromise agreement as contained in the *Decision* dated January 12, 1993 [are] clear, and that [PSBank] is entitled to the satisfaction of the said *Decision* in its favor as the same states that it is final and executory and to delay its execution unjustifiably prejudices [PSBank].

Thus, finding [PSBank's] argument to be well-founded, the [trial court] subsequently issued an *Order* dated December 12, 1994 reinstating the writ of execution for the implementation of its *Decision*. Accordingly, a Deed of Absolute Sale dated February 27, 1995 was executed by Branch Clerk of Court Atty. Amador Pineda, as attorney-in-fact of EGI, in favor of [PSBank] over EGI's mortgaged properties covered by TCT Nos. 292874 and 249866 in accordance with the terms set in the *Decision*. Thereafter, TCT Nos. 292874 and 249866 were cancelled and replaced by TCT Nos. N-136360 and N-136261, respectively. After the properties were registered under its name, [PSBank] filed an *Ex-Parte Motion For The Issuance Of A Writ Of Possession*, which was granted by the [trial court] in an *Order* dated February 1, 1996.

However, EGI filed an *Urgent Motion For Reconsideration Of The Order Dated February 1, 1996*, alleging that under paragraph (6), they still have one (1) year from registration of the sale of the mortgaged properties within which to vacate the properties and it is only after the lapse of such period that [PSBank] may move for issuance of a writ of possession. The motion was denied by the [trial court] in an *Order*dated June 4, 1996.

After the denial of its urgent motion, EGI challenged the said *Order*before this Court by way of a *Petition* under Rule 45 of the Rules of Court, docketed as CA-G.R. SP No. 41348. The Third Division of this Court rendered a *Decision* dated February 27, 2004 dismissing EGI's petition, the same being the wrong remedy. The same Division further held that the issuance of the writ of possession is a ministerial duty of the [trial court] for purposes of implementing the parties' compromise agreement as contained in the *Decision* dated January 12, 1993, which has long become final and executory.

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EGI's petition having been dismissed, [PSBank] filed a *Motion For Issuance Of Writ Of Possession* before the [trial court], alleging that with the dismissal of EGI's petition before this Court and with the properties having been transferred under its name, [PSBank] is now entitled to the issuance of the writ as a matter of right. The same was granted in an *Order* dated March 17, 2005 and a *Notice To Vacate* was subsequently served on EGI.

At this juncture, Attys. Nemesio R. Briones and Pacito M. Pineda, Jr. filed their *Entry of Appearance* with the [trial court] as collaborating counsels for EGI and subsequently filed an *Urgent Motion For Reconsideration*, alleging that it never received a copy of [PSBank's] motion for issuance of writ of possession and that it would have contested the motion had it known about the same, and invoked its right to due process. [PSBank] filed its Opposition to EGI's motion, reiterating its argument for the issuance of the writ of possession.

In an *Order* dated April 29, 2005, the [trial court] denied EGI's urgent motion for reconsideration, stating that the record of the case shows that EGI's counsel of record, Atty. Ambrosio Garcia, was duly served a copy of the Order dated November 12, 2004 directing counsel to file a comment/opposition to [PSBank's] motion. However, the [trial court] noted that no such comment/opposition was filed nor any justification given for failing to do so.

EGI filed a *Reply with Urgent Motion To Recall Order Dated April 29, 2005*, alleging that it was denied the right to contest each and every point raised by [PSBank] in its opposition, and claiming that it had until May 13, 2005 within which to file its Reply thereto. **It was only at that point that EGI raised for the first time the alleged lack of authority of its former president, Jose Rolando Santos, to enter into the compromise agreement reduced in the Decision dated January 12, 1993.**

[PSBank] filed its *Rejoinder With Opposition*, arguing that EGI is now estopped from assailing the authority of Atty. Ambrosio Garcia and EGI's former president Jose Rolando Santos, which they could have interposed when they filed their motion for reconsideration of the order granting the issuance of the writ of possession. Thus, [PSBank] prayed for the denial of EGI's motion for lack of merit.

While the incidents were still pending resolution before the [trial court], EGI filed a *Petition For Annulment* before this Court, docketed as CA-G.R. SP No. 90134, praying that the *Decision* dated January 12, 1993 be set aside and declared unenforceable or null and void, and

all court processes issued by virtue thereof be recalled and also declared null and void. The then Tenth Division of the Court issued a *Resolution*dated July 6, 2005, noting therein that EGI's pending *Reply With Urgent Motion To Recall The Order Dated April 29, 2005* still to be resolved by the [trial court] is the proper remedy as the allegations therein, if found to be true, would cause the setting aside of the compromise agreement and equally the Decision rendered by virtue thereof; and if denied, would give EGI the remedy of appeal. Thus, in dismissing EGI's petition, the then Tenth Division cited *Cruz vs. Intermediate Appellate Court, viz*:

> It is hornbook knowledge that a judgment on compromise [agreement] has the effect of res judicata on the parties and should not be disturbed except for vices of consent or forgery. To challenge the same, a party must move in the trial court to set aside the said judgment and also to annul the compromise agreement itself, before he can appeal from that judgment. Definitely, the petitioners have ignored these remedial avenues.

The Court also found EGI guilty of forum shopping for the precipitate filing of the petition, notwithstanding the pendency of its motions before [the trial court], prompting EGI to file a *Manifestation*explaining therein that the filing of the petition while it has a pending incident before the [trial court] is a remedy allowed under the Rules and does not constitute forum shopping. Thus, following the appropriate remedial measure pointed out in the Resolution of the Tenth Division, EGI returned to the [trial court] and filed a *Motion To Set Aside Judgment Based On a Compromise Agreement,* alleging in the main:

> 5. Plaintiff EGI thus respectfully moves that the Decision dated January 12, 1993 approving the Compromise Agreement entered into by Mr. Santos with defendants PSBank and Metrobank be set aside. The alleged Compromise Agreement entered into by Mr. Santos without the knowledge of and the proper authority from plaintiff EGI is not legally binding and not enforceable against plaintiff EGI. Consequently, any order, resolution, decision or writ rendered by virtue of said Compromise Agreement shall not be legally binding against plaintiff EGI. The Decision dated January 12, 1993 approving the same therefore [should] be set aside.

On the other hand, [PSBank] filed its *Counter-Manifestation* before the then Tenth Division, alleging that it recently received the above

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motion of EGI which is merely asking the [trial court] to rule on issues already passed upon by this Court that rendered an opinion adverse to EGI, which has already been found guilty of forum-shopping. Thereafter, [PSBank] filed its *Opposition* to EGI's Motion to set aside the *Decision* dated January 12, 1993 and the compromise agreement, arguing that the dismissal of its petition for annulment of judgment and the subsequent filing of said motion constitutes forum shopping.

[PSBank] countered further that the failure of EGI's counsel of record, Atty. Ambrosio Garcia, nor of its former president, Jose Rolando Santos, to produce the requisite special power of attorney (SPA) to enter into a compromise agreement does not mean that they were not authorized to do so as the pre-trial and subsequent proceedings could not have proceeded in the absence thereof. [PSBank] added that even if that is the case, EGI is now estopped from assailing the compromise agreement and the *Decision* dated January 12, 1993 as it never asserted the same. [PSBank] pointed [out] further that more than twelve (12) years have already lapsed from the rendition of the *Decision* and as a consequence, EGI is now barred by laches.

EGI subsequently filed a *Motion to Set [Aside] Compromise Agreement And Reply In Connection With The Motion To Set Aside Judgment Based on Compromise Agreement*, alleging that the [trial court] must decide on the basis of the record of the case and not merely on reasonable inference as what [PSBank] would want to happen with respect to the authority of its former president and Atty. Garcia to enter into a compromise agreement, stressing that the record will bear out that EGI never gave both a special power of attorney to do so. EGI also pointed out that its act of abandoning the petition for annulment of judgment erases all doubts that it is guilty of forum shopping.

In the midst of this exchange of pleadings between [PSBank] and EGI, the [trial court] issued an *Order* dated August 31, 2005 denying EGI's *Urgent Motion To Recall Order Dated April 29, 2005, Urgent Motion To Suspend Proceedings* and *Motion To Set Aside Judgment*, for lack of merit.

Thereafter, [PSBank] filed its *Comment/Opposition to the Motion To Set [Aside] Compromise Agreement And Reply In Connection With The Motion To Set Aside Judgment Based On Compromise Agreement.*

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Meanwhile, EGI filed a *Motion For Reconsideration* of the *Order* dated August 31, 2005, arguing that it has yet to file its reply to [PSBank's] Opposition and was, thus, deprived of due process. EGI also echoed its argument that in the absence of an SPA authorizing its former president Jose Rolando Santos and counsel of record Atty. Ambrosio Garcia, it cannot be bound under the compromise agreement subject of the *Decision* dated January 12, 1993. Accordingly, EGI argued that estoppel by laches will not hold under the premises.

[PSBank] filed its *Comment/Opposition* to EGI's motion for reconsideration, alleging that the same is pro forma and a mere continuation of EGI's obstinate resort to forum shopping as found by the then Tenth Division of this Court in the *Resolution* dated July 6, 2005, of which EGI did not file any motion for reconsideration. Citing Section 5, Rule 7 of the Rules of Court, [PSBank] contended that deliberate resort to forum shopping merits the sanction of dismissal.

Respondent Pairing Judge Ma. Theresa Dela Torre-Yadao issued an *Order* dated February 15, 2007, denying EGI's motion for reconsideration for lack of merit. Equally denied in the same *Order* were EGI's *Motion to Set Aside Compromise Agreement And Its Reply In Connection With the Motion To Set Aside Judgment Based on Compromise Agreement and Motion For Reconsideration* of the Order dated August 30, 2005 filed by third-party claimant Frederick Gerard Q. Santos.

EGI filed a *Motion for Reconsideration* of the afore-cited *Order*, alleging that it is merely following the opinion of the Tenth Division of this Court in the *Resolution* dated July 6, 2005 that it avail[ed] of the proper remedy in seeking to set aside the compromise agreement pending at the time of the filing of the petition before this Court, docketed as CA-G.R. SP No. 90134. Thus, EGI posited that the [trial court] should take a second look at the glaring error of the previous presiding judge of approving a compromise agreement that is allegedly highly inequitable in its stipulations and worse, entered by Jose Rolando Santos without any authority and who intentionally and deliberately concealed the same from EGI.

[PSBank] filed its *Opposition* to the said motion, arguing in the main that the issues raised therein are a mere rehash of the various pleadings already filed by EGI and that the then Third Division of this Court has already held in its *Decision* dated February 27, 2004 in CA-G.R. SP No. 41348 that the Decision dated January 12, 1993 is already final and executory and has also already declared the

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compromise agreement sought to be set aside as having the force of law between the parties.

Issues joined, **respondent Pairing Judge Ma.Theresa Dela Torre-Yadao issued the now challenged *Order* dated August 24, 2007 reversing the trial court's earlier *Order* dated February 25, 2007 and declaring the Compromise Agreement dated December 29, 1992 as null and void**, citing *Rivero vs. Court of Appeals*, in support thereof declaring:

> x x x, a compromise agreement executed by one in behalf of another, who is not duly authorized to do so by the principal, is void and has no legal effect, and the judgment based on such compromise agreement is null and void and vests no right and holds no obligation to any party.

The tables having been turned against [PSBank], it then filed a *Motion for Reconsideration*, stating that the [trial court] had unwittingly condoned the procedurally proscribed practice of reversing final and executory decisions as in the present case, considering that this Court has already held in CA-G.R. SP No. 41348 that the *Decision* dated January 12, 1993 is already final and executory. [PSBank] contended that the present compromise agreement is stamped with judicial approval and thus its nature is different from an ordinary compromise agreement, citing *Ynson vs. Court of Appeals*, thus:

> Furthermore, the compromise agreement entered into by the parties had the force of law and was conclusive between them. A judicial compromise, once stamped with judicial approval, becomes more than a mere contract binding upon the parties, and having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any other judgment. In their compromise agreement, the parties unequivocally stipulated that 'the fair market value of the shares of stock owned by Felipe Yulienco and Emerita M. Salva as determined and/or fixed by AEA Development Corporation shall be final, irrevocable and binding upon the parties and non-appealable. There being no fraud in the appraisal of the shares of stock, the valuation thereof is binding and conclusive upon the parties.

EGI filed its *Opposition*, stating that no judicial imprimatur should be accorded to a compromise agreement when the parties thereto are not duly and validly clothed with the requisite authority to represent

an alleged principal and therefore, the court acquires no jurisdiction. EGI pointed out further that the Verification of the original complaint signed by its former president shows that it does not contain any averment that the latter was authorized by its board to cause the filing of the present action.

Thereafter, EGI filed a *Supplemental Opposition With Motion To Strike Out Defendant Philippine Savings Bank's Motion For Reconsideration Dated September 25, 2007*, alleging that [PSBank's] notice of hearing violated Section 5, Rule 15 of the Rules of Court as the date set therein was beyond ten (10) days from date of filing as mandated in the rules.

[PSBank] countered EGI's allegations in its *Consolidated Reply* to which EGI filed a *Rejoinder and Reply*. **Respondent Judge Charito B. Gonzales issued the second challenged *Order* dated January 23, 2008 denying [PSBank's] motion for reconsideration for alleged contravention of Section 5, Rule 15 of the Rules**.[7] (Boldfacing and underscoring supplied)

The CA's Ruling

In its annulment of the trial court's Orders dated 24 August 2007 and 23 January 2008, the CA appreciated the facts differently from the trial court.

The CA concluded that the 24 August 2007 Order was issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The CA was not inclined to believe that Jose Rolando Santos (Santos), EGI's former president, had no special power of attorney or secretary's certificate attesting to his authority to represent EGI. Neither was the CA inclined to believe that Santos filed the complaint without any authority from EGI's Board of Directors. The CA further stated that laches had set in against EGI as 12 years had lapsed from the date of execution of the compromise agreement. Thus, EGI can no longer invoke the lack of knowledge of its Board of Directors.

The CA also concluded that the 23 January 2008 Order was issued with grave abuse of discretion amounting to lack or excess

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[7] *Id*. at 45-59.

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of jurisdiction. The CA stated that even if the hearing date exceeded the ten-day period, it would cause no injury to EGI.

The dispositive portion of the CA's decision reads as follows:

> WHEREFORE, the present petition is hereby GRANTED and the challenged *Orders* dated August 24, 2007 and January 23, 2008 are hereby ANNULLED and SET ASIDE. Accordingly, the *Decision* dated January 12, 1993, is REINSTATED.
>
> SO ORDERED.[8]

In a Resolution promulgated on 19 March 2009, the CA denied EGI's motion for reconsideration. The CA stated:

> It bears noting, as [EGI] may have missed the point, that Pairing Judge Ma. Theresa Dela Torre-Yadao's challenged *Order* dated August 24, 2007 set aside the compromise agreement and ultimately the*Decision* dated January 12, 1993, which the Third Division of this Court already declared final and executory in the *Decision* dated February 27, 2004 in CA-G.R. SP No. 41348. It is evident from these facts alone that respondent Judges [Presiding Judge Charito B. Gonzales and Pairing Judge Ma. Theresa Dela Torre-Yadao] acted without or in excess of their jurisdiction for they not only overturned the decision of a co-equal body but also of this Court as well which affirmed the same.
>
> WHEREFORE, the motion for reconsideration is hereby DENIED.
>
> SO ORDERED.[9]

EGI filed the present petition on 8 April 2009.

The Issue

Petitioner EGI raised only one issue before this Court:

> Whether the [CA] erred in annulling and setting aside the Orders dated 24 August 2007 and 23 January 2008 issued by the [trial court] thereby reinstating the Decision dated 12 January 1993 which approved an alleged Compromise Agreement entered into between PSBank

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[8] *Id*. at 73.

[9] *Id*. at 77.

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and the former President of EGI without the knowledge, consent and authority of the latter.[10]

The Court's Ruling

We deny the petition.

We underscore that EGI' s petition hinges on a ruling on a finding of fact: that is, whether Santos entered into a Compromise Agreement with PSBank without the knowledge, consent, and authority of EGI and its Board of Directors. Determination of this fact will, in turn, be determinative of which among the subsequent rulings should be upheld.

As a general rule, a petition for review on *certiorari* under Rule 45 of the Rules of Court should cover only questions of law. Section 1 of Rule 45 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.** (Emphasis supplied)

The general rule admits of exceptions: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings

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[10] *Id*. at 20.

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are contrary to the admissions of both parties.[11] We find that none of the exceptions apply in the present case.

After a careful review of each party's submissions, we agree with EGI that there is nothing in the records that shows that Santos had the express authority to represent EGI in filing a complaint before the trial court, or even enter into any compromise agreement on behalf of EGI. Aside from its bare allegations, PSBank was not able to present any evidence which would show that Santos indeed had the authority to represent EGI. PSBank was not able to show any evidence of a board authority, a special power of attorney, or even a secretary's certificate that EGI issued in favor of Santos. Neither was PSBank able to show that it was not necessary for Santos to present a Board Resolution that authorizes him to file the Complaint and enter into the Compromise Agreement because EGI's By-Laws expressly authorize him to do so.[12]

However, in its eagerness to repudiate Santos' acts, EGI failed to substantiate how and when Santos lost his status as Company President, and how Santos was able to proceed with his misrepresentations before the Board of Directors regarding the payment of the loan obligation. The promissory notes from 1984 to 1990 were all signed by Santos as EGI's President. EGI did not bother to inform PSBank about the change in Santos' status despite previously holding him out as a person with authority to transact in its name. EGI also did not address how it will comply with the terms of the loan obligation. Moreover, in the same manner that EGI has been decrying the lack of explicit authority from its Board of Directors, we also expect nothing less than minutes of a Board Meeting, or even a Board Resolution, which removed Santos as Company President, or denounced his lack of authority to act in EGI's name.

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[11] *Republic of the Philippines v. Belmonte*, 719 Phil. 393, 400 (2013).

[12] See *Cebu Mactan Members Center, Inc. v. Tsukahara*, 610 Phil. 586 (2009).

The CA clearly showed EGI's duplicity and eagerness to utilize a measure that will delay fulfillment of its obligation to PSBank:

In EGI's *Reply With Urgent Motion to Recall Order Dated April 29, 2005*, it alleged under paragraph (10) thereof:

> 10. Plaintiff EGI would like to make it of record that its corporate officers were stunned and appalled by the notice to vacate the property, **as the corporation is not aware of the developments in the instant case.**

It appears from the wordings thereof that what EGI was not aware of were the developments in the case before the [trial court] and not of the case itself. Nonetheless, EGI is now estopped from questioning the jurisdiction of the [trial court] after it had actively participated in the proceedings before it, and in fact was able to obtain relief therefrom.

This Court also notes that the representative of EGI in the filing of its *Petition for Annulment* before this Court and who signed the Verification and Certification of Non-Forum Shopping, Imelda Q. Santos, appears to be the same Imelda Santos who signed the Promissory Note together with Jose Rolando Santos in favor of [PSBank] and also included as mortgagor in the Real Estate Mortgage executed also in favor of [PSBank].

Furthermore, EGI never denies the fact that [PSBank] already formally demanded payment of the loan obligation. Under this circumstance where EGI's present representative has knowledge of the loan obligation with [PSBank] and the mortgage executed to secure the same, and is in fact a party thereto, it puzzles this Court why EGI and its board of directors are totally unaware of the proceedings before the [trial court] when its present representative is a party to the loan with [PSBank] and which standing loan obligation's regular amortization is not being paid as it fell due, as in fact, demand has already been made earlier for its full payment. The foregoing clearly indicates that EGI is not complying with the terms and conditions under the promissory note executed by its former president and its current representative nor is it maintaining any communication with [PSBank] regarding the same transaction.

Without actually accusing its former president of fraud, EGI would want to impress upon the courts that its former president acted fraudulently in filing the complaint against [PSBank] before the [trial

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court] and in subsequently entering into the compromise agreement without proper authorization from EGI's board of directors. Thus, it is EGI's theory that the [trial court] never acquired jurisdiction over it.

However, it must be borne in mind that he who alleges fraud must prove it for basic is the rule that *actori incumbit onus probandi*. It is an aged-old rule in civil cases that he who alleges a fact has the burden of proving it and a mere allegation is not evidence. Fraud is never presumed, but must be established by clear and convincing evidence. Outside its bare allegation of fraud and the absence of a special power of attorney and/or secretary's certificate, EGI never advanced any evidence to show how and why its former president deliberately concealed from its board of directors the complaint filed before the[trial court] and the subsequent compromise agreement.

It bears stressing that EGI has been insisting that the board of directors has the sole power and responsibility to bind the corporation in transacting business or in the performance of any act binding on the corporation. It is evident that EGI is aware of its loan obligation with [PSBank] and the terms thereof under the Promissory Note dated February 14, 1990 which its former president executed together with its present representative, Imelda Santos, and secured by a Real Estate Mortgage also executed by both individuals, by virtue of the Resolution of EGI's board of directors dated January 28, 1990. Absent from the records is any allegation on the part of EGI as to what action it has taken in order to comply with the terms of the promissory note under pain of losing its property nor to the demand sent by [PSBank] after it failed to comply therewith. Added to the same is the lack of any allegation by EGI that its former president made any representations or misrepresentations before the board regarding the status and/or payment of said loan obligation.

From the foregoing, it is readily apparent that EGI's board of directors failed to exercise the requisite diligence of a good father of a family in handling its affairs, specifically its loan obligation with [PSBank] which it is very much aware of. Also, there is no allegation as to whether the board of directors at the time of the execution of the compromise agreement is the same board of directors which is now claiming that its former president intentionally concealed and withheld the said complaint and compromise agreement.

Be that as it may, [PSBank] has no reason to doubt the authority of Jose Rolando Santos to enter into a compromise agreement with

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[PSBank], the former being the president of EGI at the time of its execution. Both parties are presumed to be acting in good faith and with honesty of intention, free from knowledge of circumstances which ought to put one upon inquiry. (PSBank] would have no reason to doubt the authority of EGI's former president, having dealt with him before in the granting of EGI's loan and in the execution of the mortgage over the disputed properties to secure the same.

Furthermore, paragraph 10 of the Compromise Agreement dated December 29, 1992 and adopted in the Decision dated January 12, 1993 provides:

> 10. The parties[‘] representatives signing this Compromise Agreement expressly warrant that they have been duly authorized to represent and bind their respective corporations.

Even assuming that EGI's former president, Jose Rolando Santos, was indeed never authorized to file the original complaint before the [trial court] such that all proceedings therein are to be nullified, including the writ of preliminary injunction issued against [PSBank] enjoining it from proceeding with the extrajudicial foreclosure of the mortgaged properties, the same would only serve to revert the right of [PSBank] to proceed with the extrajudicial foreclosure of said mortgaged properties absent any proof that EGI has already settled its long outstanding obligation. However, to do so would be inequitous, considering that EGI has long benefitted from the proceeds of the loan which it obtained from [PSBank] and which loan remains unpaid for more than a decade now. It is but proper, therefore, that the rights of the parties now present be adjudicated as justice and equity dictate the same.[13] (Boldfacing and underscoring in the original)

A corporation, as a juridical entity, acts through its board of directors. The board exercises almost all corporate powers, lays down all corporate business policies, and is responsible for the efficiency of management. The general rule is that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation.[14] Section 23 of the Corporation Code of the Philippines provides:

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[13] *Rollo*, pp. 63-67.

[14] See *Cebu Mactan Members Center, Inc. v. Tsukahara*, *supra* note 12.

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SEC. 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 x x x.

x x x x x x x x x

As mentioned above, the records of the case show no evidence that EGI authorized Santos to file a Complaint and enter into a Compromise Agreement on its behalf. Neither was there any showing that EGI's By-Laws authorize its President to do such acts.

EGI's grant of authority to Santos, however, falls under the doctrine of apparent authority. Under this doctrine, acts and contracts of the agent, as are within the apparent scope of the authority conferred on him, although no actual authority to do such acts or to make such contracts has been conferred, bind the principal. Furthermore, the principal's liability is limited only to third persons who have been led reasonably to believe by the conduct of the principal that such actual authority exists, although none was actually given. Apparent authority is determined only by the acts of the principal and not by the acts of the agent.[15]

EGI does not repudiate the act of Santos in signing the Promissory Notes; in fact, EGI made partial payments, offering the authority of Santos to borrow and sign the Promissory Notes. EGI, however, repudiates the act of Santos in entering into the Compromise Agreement extending the repayment of the loan under the Promissory Notes, which extension is actually beneficial to EGI. In fact, the Compromise Agreement bought time for EGI to pay the loan under the Promissory Notes but EGI still failed to pay. Having availed of benefits under the Compromise Agreement, EGI is estopped from repudiating it.

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[15] See *Banate v. Philippine Countryside Rural Bank (Liloan, Cebu)*, Inc., 639 Phil. 35 (2010).

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Since EGI's Board of Directors questioned Santos' authority to enter into a Compromise Agreement only after 12 years, laches had already set in.

The CA's decision in CA-G.R. SP No. 41438, promulgated on 27 February 2004,[16] has long become final and executory. RTC Judge Yadao's Order of 24 August 2007, which declared the Compromise Agreement null and void, cannot review the aforementioned CA decision.

> x x x. While the power and responsibility to decide whether the corporation should enter into a contract that will bind the corporation is lodged in its board of directors, subject to the articles of incorporation, by-laws, or relevant provisions of law, yet, just as a natural person may authorize another to do certain acts for and on his behalf, the board of directors may validly delegate some of its functions and powers to officers, committees, or agents. The authority of such individuals to bind the corporation is generally derived from law, corporate by-laws, or authorization from the board, either expressly or impliedly by habit, custom, or acquiescence in the general course of business. Apparent authority, is derived not merely from practice. Its existence may be ascertained through (1) the general manner in which the corporation holds out an officer or agent as having the power to act or, in other words, the apparent authority to act in general, with which it clothes him; or (2) the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his ordinary powers.
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> x x x. It is a familiar doctrine that if a corporation knowingly permits one of its officers or any other agent to act within the scope of an apparent authority, it holds him out to the public as possessing the power to do those acts; thus, the corporation will, as against anyone who has in good faith dealt with it through such agent, be estopped from denying the agent's authority.[17]

PSBank has framed the present case as a debtor's abuse of the judicial process to evade the payment of its just and valid obligations. Indeed, EGI still has not fully paid the loan obligation

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[16] *Rollo*, pp. 733-743.

[17] *Lipat v. Pacific Banking Corp.*, 450 Phil. 401, 414-415 (2003).