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WHEREFORE, we *PARTIALLY GRANT* the instant petition. The Decision of the Court of Appeals dated 23 December 1998 and its Resolution dated 29 November 1999 in CA-G.R. SP No. 44777 are *REVERSED* and *SET ASIDE* except with respect to articles seized under paragraph (c) of Search Warrants Nos. 96-451, 96-452, 96-453 and 96-454. All articles seized under paragraph (c) of the search warrants, not falling under paragraphs a, b, d, e or f, are ordered returned to Maxicorp, Inc. immediately.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Ynares-Santiago, and *Azcuna, JJ.,* concur.

Quisumbing, J., took no part. Close relation to Counsel.

SPECIAL FIRST DIVISION

[G.R. No. 145982. September 13, 2004]

FRANK N. LIU, deceased, substituted by his surviving spouse Diana Liu, and children, namely: Walter, Milton, Frank, Jr., Henry and Jockson, all surnamed Liu, Rebecca Liu Shui and Pearl Liu Rodriguez, *petitioners, vs.* **ALFREDO LOY, JR., TERESITA A. LOY and ESTATE OF JOSE VAÑO,** *respondents.*

SYNOPSIS

The respondent Loys seek a reconsideration of the Decision dated 3 July 2003 of the Court declaring void the deeds of sale of Lot Nos. 5 and 6 executed by Teodoro Vaño in favor of Alfredo Loy, Jr. and Teresita Loy. The Court held that Lot Nos. 5 and 6 belong to Frank Liu since the probate court approved his deeds of sale in accordance with Section 8, Rule 89 of the Rules of Court. The deeds of sale of the Loys lacked a valid

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probate court approval. As a result, the Court ordered the Estate of Jose Vaño to reimburse the Loys the amounts they paid for Lot Nos. 5 and 6, with interest at 6% annually from 4 June 1976, the date of filing of the complaint, until finality of the decision, and 12% annually thereafter until full payment.

The Supreme Court denied the motion for reconsideration. The Court reiterated the rule that an administrator needs court approval to sell estate property, otherwise the sale is void. Court approval of the sale of estate property is clearly required under Rule 89 of the Rules of Court, which enumerates the instances when the court may allow the sale or encumbrance of estate property. Section 7 of Rule 89 of the Rules of Court even provides for the regulations for granting authority to sell, mortgage or otherwise encumber estate property. More importantly, Section 91 of Act No. 496 (Land Registration Act) and Section 88 of Presidential Decree No. 1529 (Property Registration Decree) specifically require court approval for any sale of registered land by an executor or administrator. The laws, Rules of Court, jurisprudence and regulations explicitly require court approval before any sale of estate property by an executor or administrator can take effect. The purpose of requiring court approval is to protect creditors. In the present case, Frank Liu is a creditor, and he is the person the law seeks to protect.

SYLLABUS

1. CIVIL LAW; CONTRACTS; SALES; A PRIOR CONTRACT TO SELL MADE BY THE DECEDENT DURING HIS LIFETIME PREVAILS OVER A SUBSEQUENT CONTRACT OF SALE MADE BY THE ADMINISTRATOR WITHOUT PROBATE COURT APPROVAL.— A prior contract to sell made by the decedent during his lifetime prevails over a subsequent contract of sale made by the administrator without probate court approval. It is immaterial if the prior contract is a mere contract to sell and does not immediately convey ownership. Frank Liu's contract to sell became valid and effective upon its execution and bound the estate to convey the property upon full payment of the consideration.

2. ID.; ID.; ID.; SALE MADE BY DECEDENT DURING HIS LIFETIME THROUGH ATTORNEY-IN-FACT IS VALID; POWER OF ATTORNEY EXECUTED BY DECEDENT IN

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FAVOR OF ATTORNEY-IN-FACT REMAINED VALID DURING THE LIFETIME OF THE DECEDENT.— The sale of the lots by Teodoro Vaño to Benito Liu was valid. The sale was made by Teodoro Vaño on 13 January 1950 in his capacity as attorney-in-fact of Jose Vaño. The sale to Benito Liu was made during the lifetime of Jose Vaño, *not* after the death of Jose Vaño who died on 28 January 1950. The power of attorney executed by Jose Vaño in favor of Teodoro Vaño remained valid during the lifetime of Jose Vaño. In his letter dated 16 October 1954, Teodoro Vaño stated that on 30 June 1954, the Supreme Court allowed the probate of the will of Jose Vaño. Teodoro Vaño likewise mentioned in the letter that in July 1954, the Supreme Court held that all the sales made by Teodoro Vaño of the properties of his father were legal. Thus, Benito Liu's deed of sale in favor of Frank Liu covering the lots sold to him by Teodoro Vaño constitutes a valid charge or claim against the estate of Jose Vaño.

3. **ID.; ID.; ID.; RESPONDENTS ARE NOT BUYERS AND REGISTRANTS IN GOOD FAITH CONSIDERING THAT THEY BOUGHT FROM A SELLER WHO WAS NOT THE REGISTERED OWNER.—** The Loys are not buyers and registrants in good faith considering that they bought from a seller who was not a registered owner. Teodoro Vaño signed both contracts of sale but the titles to the lots sold were in the name of "Estate of Jose Vaño." And since the titles to Lot Nos. 5 and 6 were in name of "Estate of Jose Vaño," the Loys were on notice that court approval was needed for the sale of estate property. The *ex-parte* motion for the court approval of the sales filed by the Loys some seven or eight years after the sales transaction reveals a less than honest actuation, prompting the administratrix to object to the court's approval.

4. **REMEDIAL LAW; SPECIAL PROCEEDINGS; SETTLEMENT OF ESTATE OF DECEASED PERSONS; SALE OF PROPERTY OF DECEDENT; ADMINISTRATOR NEEDS COURT APPROVAL TO SELL ESTATE PROPERTY; PURPOSE OF REQUIRING COURT APPROVAL IS TO PROTECT CREDITORS.—** Well-settled is the rule that an administrator needs court approval to sell estate property, otherwise the sale is void. Court approval of the sale of estate property is clearly required under Rule 89 of the Rules of Court, which enumerates the instances when the court may allow the

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sale or encumbrance of estate property. Section 7 of Rule 89 of the Rules of Court even provides for the regulations for granting authority to sell, mortgage or otherwise encumber estate property. More importantly, Section 91 of Act No. 496 (Land Registration Act) and Section 88 of Presidential Decree No. 1529 (Property Registration Decree) specifically require court approval for any sale of registered land by an executor or administrator. The laws, Rules of Court, jurisprudence and regulations explicitly require court approval before any sale of estate property by an executor or administrator can take effect. The purpose of requiring court approval is to protect creditors. In this case, Frank Liu is a creditor, and he is the person the law seeks to protect.

5. ID.; ID.; ID.; ID.; ORDERS OF PROBATE COURT APPROVING SUBJECT CONTRACTS ARE VOID; PROBATE COURT HAD NO JURISDICTION OVER THE SOLD LOTS SINCE THEY NO LONGER FORMED PART OF THE ESTATE OF THE DECEDENT.— The orders of the probate court dated 19 and 23 March 1976 approving the contracts of the Loys are void. The orders did not ratify the sales because there was already a prior order of the probate court dated 24 February 1976 approving the sale of Lot Nos. 5 and 6 to Frank Liu. Hence, the probate court had already lost jurisdiction over Lot Nos. 5 and 6 since the lots no longer formed part of the Estate of Jose Vaño. In fact, the administratrix of the estate filed a motion for reconsideration of the orders of the probate court approving the contracts of the Loys because she already executed a deed of sale covering Lot Nos. 5 and 6 in favor of Frank Liu. The Loys impliedly admitted that their contracts of sale dated 19 August 1968 and 16 December 1969 were ineffective when they belatedly asked in 1976 for court approval of the sales. If the Loys believed that their deeds of sale in 1968 and 1969 were valid, they would not have asked for court approval in 1976. By asking for court approval, they necessarily admitted that without court approval, the sale to them was ineffectual.

DAVIDE, JR., *C.J., dissenting opinion:*

1. CIVIL LAW; CONTRACTS; SALES; THE AGREEMENT TO SELL BETWEEN THE DECEDENT, THROUGH HIS ATTORNEY-IN-FACT, AND PETITIONER'S

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PREDECESSOR-IN-INTEREST WAS VALIDLY RESCINDED FOR NON-COMPLETION OF PAYMENT OF AGREED PURCHASE PRICE.— Paragraph 5 of the agreement in favor of Benito Liu expressly provides: Failure on the part of the VENDEE to pay three or more monthly installments when the same fall due, VENDOR may cancel this contract and VENDEE shall be only entitled to one-half (½) of what he has paid. And paragraph 4 thereof expressly provides: 4. The balance of ₱3,000 shall be paid by VENDEE at the rate of ₱100.00 per month beginning with the end of January 1950 and every month thereafter . . . Neither Benito Liu nor Frank Liu complied with the contract. It is clear then that the agreement to sell between Teodoro Vaño as attorney-in-fact of Jose Vaño, made during the lifetime of Jose Vaño, was validly cancelled or rescinded. It follows that Benito Liu never became the owner of the lots covered by the agreement. Consequently, he could not sell the lots to petitioner Frank Liu on 22 April 1966. Therefore, the sale in favor of the latter was null and void. It could not bind the estate of Jose Vaño.

2. **ID.; ID.; ID.; THE ESTATE OF THE DECEDENT CANNOT BE BOUND TO HONOR AN AGREEMENT TO SELL IN FAVOR OF A BUYER WHO NEVER COMPLETED PAYMENT FOR THE AGREED PURCHASE PRICE.—** It would be grossly unfair and unjust that the estate of Jose Vaño should be made bound to honor an agreement to sell executed on 13 January 1950 in favor of Benito Liu who never completed the payment for the agreed purchase price. The so-called sale in favor of petitioner was only made more than sixteen (16) years later, or on 22 April 1966, long after the death of Jose Vaño, and long after Teodoro Vaño had lost his authority as attorney-in-fact because the power was not coupled with interest. Jose Vaño's death terminated Teodoro's power as attorney-in-fact. Likewise, it follows that Benito Liu's deed of sale in petitioner's favor did not constitute a charge or claim against the estate of Jose Vaño.

3. **ID.; ID.; ID.; THE SOLE AND ONLY HEIR OF THE DECEDENT, WHO WAS APPOINTED ATTORNEY-IN-FACT, COULD SELL A PART OF HIS RIGHTS, SHARE AND PARTICIPATION IN THE ESTATE; SUCH SALE MAY ONLY BE RENDERED VOIDABLE IN THE EVENT CLAIMS AGAINST THE ESTATE ARE IMPAIRED.—** [I]t

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is admitted that Teodoro Vaño was the sole and only heir of Jose Vaño. In such capacity he could sell a part of his rights, share and participation in the estate of Jose Vaño. Such sale is not void, but may only be rendered voidable in the event claims against estate may be impaired. Furthermore, one should not lose sight of the fact that private respondents Alfredo Loy and Teresita Loy registered the deeds of sale in their favor, were issued transfer certificates of title in their names, declared the lots in their names for taxation purposes, religiously paid the taxes thereon, occupied the same and constructed a house thereon. Upon the other hand, petitioner Frank Liu did nothing of these.

4. ID.; ID.; ID.; BENEFICIARY'S SERIES OF ACTS PROVED THAT HE ACTED IN BAD FAITH; THE EVIDENCE, THE LAW AND EQUITY ARE ON THE SIDE OF RESPONDENTS.— The right of the Loys under the second and third paragraphs of Article 1544 is sought to be defeated by the claim that they acted in bad faith. Again, petitioner Liu has not shown that the Loys had acted with bad faith. On the contrary, no less than the counsel for Frank Liu, Atty. Solon, candidly admitted in open court that the latter has no "positive" evidence to prove bad faith. On the other hand, petitioner Frank Liu's acts proved that he was the one who acted in bad faith. First, he did not answer the letter of 16 October 1954 sent by Teodoro Vaño (Exh. "C"). Second, he did not likewise respond to Teodoro Vaño's letter of 1 January 1955 (Exh. "D"). It was only on 25 January 1964 when Liu wrote a letter to Teodoro, but only to express readiness to pay the balance of the purchase price of the seven lots and request for the execution of the deed of sale in his name (Exh. "E"). He did not pay. Then on 22 April 1966 and without paying the balance, he procured a deed of sale for five (5) of the seven lots from Benito Liu. Yet, he still did not pay the balance. And, it was only on 21 March 1968 that the petitioner reiterated in a letter to Teodoro Vaño (Exh. "F") his request for Teodoro to execute the deed of sale. In this letter he mentioned having enclosed in a letter dated 25 June 1966 of a PBC Check dated 6 May 1966 in the amount of ₱1,417 for the unpaid balance. Yet, he could not even offer in evidence either the letter or the check. While it is true that he sent two letters dated 7 June 1968 and 29 July 1968 to Teodoro Vaño reiterating his request for execution of the deed of sale, he did not make an offer for the payment of the balance of the unpaid portion of the consideration of the contract to sell. If

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Frank Liu were sincere in his desire to pay the unpaid balance of the agreed purchase price, he could have consigned in court the amount due. Finally, and probably to obtain relief from behind, petitioner Frank Liu filed before the Davao Court of First Instance on 2 December 1968 a complaint against Teodoro Vaño for specific performance, execution of deed of absolute sale, etc.Needless to state, the evidence, the law and equity are on the side of the respondents Alfredo Loy, Jr. and Teresita Loy.

APPEARANCES OF COUNSEL

Rodriguez Delos Santos & Naidas Law Offices for petitioners.
Diores Law Offices for respondents Loys.

R E S O L U T I O N

CARPIO, *J.*:

The Loys seek a reconsideration of the Decision dated 3 July 2003 of this Court declaring void the deeds of sale of Lot Nos. 5 and 6 executed by Teodoro Vaño in favor of Alfredo Loy, Jr. and Teresita Loy. We held that Lot Nos. 5 and 6 belong to Frank Liu[1] since the probate court approved his deeds of sale in accordance with Section 8,[2] Rule 89 of the Rules of

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[1] Subsequently substituted by his heirs.

[2] Section 8 of Rule 89 of the Rules of Court reads:

SEC. 8. *When court may authorize conveyance of realty which deceased contracted to convey. Notice. Effect of deed.* — Where the deceased was in his lifetime under contract, binding in law, to deed real property, or an interest therein, the court having jurisdiction of the estate may, on application for that purpose, authorize the executor or administrator to convey such property according to such contract, or with such modifications as are agreed upon by the parties and approved by the court; and if the contract is to convey real property to the executor or administrator, the clerk of court shall execute the deed. The deed executed by such executor, administrator or clerk of court shall be as effectual to convey the property as if executed by the deceased in his lifetime; but no such conveyance shall be authorized until notice of the application for that purpose has been given personally or by mail to all persons interested, and such further notice has been given,

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Court. The deeds of sale of the Loys lacked a valid probate court approval. As a result, we ordered the Estate of Jose Vaño to reimburse the Loys the amounts they paid for Lot Nos. 5 and 6, with interest at 6% annually from 4 June 1976, the date of filing of the complaint, until finality of the decision, and 12% annually thereafter until full payment.

The Court heard the parties on oral arguments on 10 March 2004 and granted them time to submit their memoranda. Frank Liu filed his memorandum on 29 March 2004 while the Loys filed their memorandum on 25 March 2004 by registered mail.

The issues that the Loys raise in their motion for reconsideration are not new. The Court already considered and discussed extensively these issues in the assailed Decision. We find no compelling reason to reconsider the assailed Decision.

The Loys insist that the transaction between Teodoro Vaño and Benito Liu, the predecessor-in-interest of Frank Liu, is a contract to sell. In contrast, the transactions between Teodoro Vaño and Alfredo Loy, Jr. and Teresita A. Loy were contracts of sale. According to the Loys, the contract to sell did not transfer ownership of Lot Nos. 5 and 6 to Benito Liu or Frank Liu because it was only a promise to sell subject to the full payment of the consideration. On the other hand, the contracts of sale in favor of the Loys transferred ownership, as the conveyances were absolute.[3]

As we held in our Decision, a prior contract to sell made by the decedent during his lifetime prevails over a subsequent contract of sale made by the administrator without probate court approval. It is immaterial if the prior contract is a mere contract to sell and does not immediately convey ownership. Frank Liu's contract to sell became valid and effective upon its execution and bound the estate to convey the property upon full payment of the consideration.

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by publication or otherwise, as the court deems proper; nor if the assets in the hands of the executor or administrator will thereby be reduced so as to prevent a creditor from receiving his full debt or diminish his dividend.

[3] *Rollo,* pp. 373-374.

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It is apparent from Teodoro Vaño's letter[4] dated 16 October 1954 that the reason why Frank Liu stopped further payments

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[4] The letter reads (emphasis supplied):

Teodoro Vaño
Juana Osmeña Ext.
P.O. Box 61
Cebu City, Philippines

Oct. 16, 1954

Mr. Frank Liu
Southern Motors,
Davao Branch, Davao City
Dear Mr. Liu:

Some time last May, if I remember correctly, you offered to settle the whole balance of your account if I can have the Titles transferred immediately in your brother's name, and to that of Mr. Pangalo's. I cannot blame you if you were disappointed then, to know that I could not have the titles transferred, even should you have paid in full.

At that time however, without your knowledge, you were innocently being made the tool of an intrigue, intended to put me in hot water, by inducing me to put in writing what we have agreed verbally. I hope I have explained the matter to your satisfaction.

However, last June 30, of this year, the Supreme Court, unanimously concurred in the reversal of the decision of the Court of First Instance, as regard the legality of the Will of my father. Now that the Will of my Father has been declared legal, my opponents have lost their personality in the case, and with it their power to harass me in court. *Also, sometime in the middle of July, also this year, the Supreme Court again declared that all the sales I have made of the properties of my father were legal, and that I should be empowered to have the titles transferred in the buyer's names, should they have paid in full.* A few have already received their titles. And yours can be had too in two days time from the time you have paid in full.

With the best of wishes for your continued good health and prosperity and that of your family's, and hoping to hear from you soon, I remain,

Yours very truly,

Teodoro Vaño
(signed)

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on the lots, leaving a balance of ₱1,000, was because Teodoro Vaño could not yet transfer the titles to Benito Liu, the predecessor-in-interest of Frank Liu. It would appear that Frank Liu and Teodoro Vaño lost contact with each other thereafter and it was only on 25 January 1964 that Frank Liu wrote Teodoro Vaño informing the latter that he was ready to pay the balance of the purchase price of the lots. Teodoro Vaño did not reply to Frank Liu's letter. On 22 April 1966, Benito Liu sold to Frank Liu the lots, including Lot Nos. 5 and 6, which Benito Liu purchased from Teodoro Vaño on 13 January 1950. Frank Liu sent three letters dated 21 March 1968, 7 June 1968 and 29 July 1968 to Teodoro Vaño reiterating his request for the execution of the deed of sale covering the lots in his favor but to no avail. On 19 August 1968, Teodoro Vaño sold Lot No. 6 to Teresita Loy and on 16 December 1969, he sold Lot No. 5 to Alfredo Loy, Jr. The sales to the Loys were made after Frank Liu offered to pay the balance of the purchase price of the lots and after he repeatedly requested for the execution of the deeds of sale in his favor.

The sale of the lots by Teodoro Vaño to Benito Liu was valid. The sale was made by Teodoro Vaño on 13 January 1950 in his capacity as attorney-in-fact of Jose Vaño. The sale to Benito Liu was made during the lifetime of Jose Vaño, *not* after the death of Jose Vaño who died on 28 January 1950.[5] The power of attorney executed by Jose Vaño in favor of Teodoro Vaño remained valid during the lifetime of Jose Vaño. In his letter dated 16 October 1954, Teodoro Vaño stated that on 30 June 1954, the Supreme Court allowed the probate of the will of Jose Vaño. Teodoro Vaño likewise mentioned in the letter that in July 1954, the Supreme Court held that all the sales made by Teodoro Vaño of the properties of his father were

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[5] In the case of *Vaño v. Vda. de Garces, et al.*, 95 Phil. 333 (1954), involving the last will and testament of Jose Vaño, it was mentioned that Jose Vaño died on 28 January 1950. The Supreme Court allowed probate of the last will and testament of Jose Vaño who bequeathed all his properties to his son, Teodoro Ceblero Vaño.

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legal.[6] Thus, Benito Liu's deed of sale in favor of Frank Liu covering the lots sold to him by Teodoro Vaño constitutes a valid charge or claim against the estate of Jose Vaño.

The Loys reiterate their contention that Teodoro Vaño, as administrator and sole heir to the properties, can sell the lots to them since the rights of an heir are transmitted from the moment of death of the testator. Although a property under estate proceedings cannot be sold without judicial approval, the Loys allege that in their case, the probate court later approved the sales to them, thereby ratifying the sales.[7]

Well-settled is the rule that an administrator needs court approval to sell estate property, otherwise the sale is void.[8] Court approval of the sale of estate property is clearly required under Rule 89 of the Rules of Court, which enumerates the instances when the court may allow the sale or encumbrance of estate property. Section 7 of Rule 89 of the Rules of Court even provides for the regulations for granting authority to sell, mortgage or otherwise encumber estate property.[9]

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[6] *See* Exhibit "C", Records, p. 64.

[7] *Rollo*, pp. 388-389.

[8] *Dillena v. Court of Appeals*, No. L-77660, 28 July 1988, 163 SCRA 630; *Manotok Realty, Inc. v. Court of Appeals*, No. L-35367, 9 April 1987, 149 SCRA 174; *Estate of Amadeo Matute Olave, et al. v. Hon. Reyes, et al.*, 208 Phil. 678 (1983); *Godoy v. Orellano*, 42 Phil. 347 (1921).

[9] Section 7, Rule 89 of the Rules of Court reads:

SEC. 7. *Regulations for granting authority to sell, mortgage, or otherwise encumber estate.* — The court having jurisdiction of the estate of the deceased may authorize the executor or administrator to sell personal estate, or to sell, mortgage, or otherwise encumber real estate, in cases provided by these rules and when it appears necessary or beneficial, under the following regulations:

(a) The executor or administrator shall file a written petition setting forth the debts due from the deceased, the expenses of administration, the legacies, the value of the personal estate, the situation of the estate to be sold, mortgaged, or otherwise encumbered, and such other facts as show that the sale, mortgage, or other encumbrance is necessary or beneficial;

(b) The court shall thereupon fix a time and place for hearing such petition, and cause notice stating the nature of the petition, the reason for the same,

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More importantly, Section 91[10] of Act No. 496 (Land Registration Act) and Section 88[11] of Presidential Decree No. 1529 (Property Registration Decree) specifically require court

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and the time and place of hearing, to be given personally or by mail to the persons interested, and may cause such further notice to be given, by publication or otherwise, as it shall deem proper;

(c) If the court requires it, the executor or administrator shall give an additional bond, in such sum as the court directs, conditioned that such executor or administrator will account for the proceeds of the sale, mortgage, or other encumbrance;

(d) If the requirements in the preceding subdivisions of this section have been complied with, the court, by order stating such compliance, may authorize the executor or administrator to sell, mortgage, or otherwise encumber, in proper cases, such part of the estate as is deemed necessary, and in case of sale the court may authorize it to be public or private, as would be most beneficial to all parties concerned. The executor or administrator shall be furnished with a certified copy of such order;

(e) If the estate is to be sold at auction, the mode of giving notice of the time and place of the sale shall be governed by the provisions concerning notice of execution sale;

(f) There shall be recorded in the registry of deeds of the province in which the real estate thus sold, mortgaged, or otherwise encumbered is situated, a certified copy of the order of the court, together with the deed of the executor or administrator for such real estate, which shall be as valid as if the deed had been executed by the deceased in his lifetime.

[10] Section 91 of Act No. 496 reads:

SEC. 91. Except in case of a will devising the land to an executor to his own use or upon some trust or giving to the executor power to sell, ***no sale or transfer of registered land shall be made by an executor or by an administrator in the course of administration for the payment of debts or for any other purpose, except in pursuance of an order of a court of competent jurisdiction obtained as provided by law.*** (Italics supplied)

[11] Section 88 of P.D. No. 1529 reads:

SEC. 88. *Dealings by administrator subject to court approva*l. — After a memorandum of the will, if any, and order allowing the same, and letters testamentary or letters of administration have been entered upon the certificate of title as hereinabove provided, ***the executor or administrator may alienate or encumber registered land belonging to the estate, or any interest therein, upon approval of the court obtained as provided by the Rules of Court.*** (Italics supplied)

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approval for any sale of registered land by an executor or administrator.

The laws, Rules of Court, jurisprudence and regulations explicitly require court approval before any sale of estate property by an executor or administrator can take effect. The purpose of requiring court approval is to protect creditors. In this case, Frank Liu is a creditor, and he is the person the law seeks to protect.

The orders of the probate court dated 19 and 23 March 1976 approving the contracts of the Loys are void. The orders did not ratify the sales because there was already a prior order of the probate court dated 24 February 1976 approving the sale of Lot Nos. 5 and 6 to Frank Liu. Hence, the probate court had already lost jurisdiction over Lot Nos. 5 and 6 since the lots no longer formed part of the Estate of Jose Vaño. In fact, the administratrix of the estate filed a motion for reconsideration of the orders of the probate court approving the contracts of the Loys because she already executed a deed of sale covering Lot Nos. 5 and 6 in favor of Frank Liu.

The Loys impliedly admitted that their contracts of sale dated 19 August 1968 and 16 December 1969 were ineffective when they belatedly asked in 1976 for court approval of the sales. If the Loys believed that their deeds of sale in 1968 and 1969 were valid, they would not have asked for court approval in 1976. By asking for court approval, they necessarily admitted that without court approval, the sale to them was ineffectual.

The Loys are not buyers and registrants in good faith considering that they bought from a seller who was not a registered owner. Teodoro Vaño signed both contracts of sale but the titles to the lots sold were in the name of "Estate of Jose Vaño." And since the titles to Lot Nos. 5 and 6 were in name of "Estate of Jose Vaño," the Loys were on notice that court approval was needed for the sale of estate property. The *ex-parte* motion for the court approval of the sales filed by the Loys some seven or eight years after the sales transaction reveals a less than honest actuation, prompting the administratrix to object to the court's approval.

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WHEREFORE, we *DENY* the motion for reconsideration.

SO ORDERED.

Ynares-Santiago and *Azcuna, JJ.,* concur.

Davide, Jr., C.J. (Chairman), see dissenting opinion.

DISSENTING OPINION

DAVIDE, JR., *C.J.*:

Upon a deeper evaluation of the established facts in this case, I am constrained to vote to grant the motion to reconsider the Decision of 3 July 2003 and to deny the instant petition.

I agree with both the trial court and the Court of Appeals that the contract entered into on 13 January 1950 between Teodoro Vaño, as attorney-in-fact of Jose Vaño, and Benito Liu, which is the source of petitioner Frank Liu's claim, is a contract to sell (an AGREEMENT, as the introductory portion thereof begins) and not a contract of sale. From the very beginning, however, it was petitioner Frank Liu who was the real "buyer" of the seven lots, two of which were covered by the agreement in favor of Cirilo Pangalo, and the other five covered by the agreement in favor of Benito Liu (Exh. A). The latter includes Lot Nos. 5 and 6. Thus, in footnote no. 6 of our decision of 3 July 2003, we said:

> The contract between Teodoro Vaño and Cirilo Pangalo provides that in case of death of the vendee, the contract shall be considered as fully paid and a final deed of sale shall be made in favor of the beneficiary, Frank N. Liu, provided vendee is not in arrears of not more than two months. Also, in his letter to Frank Liu, dated 1 January 1955, Teodoro Vaño stated that: "I have addressed my letter to you because ever since 1949, it has always been you I dealt with, and not Mr. B. Liu, neither with Mr. C. Pangalo, though the last two gentlemen were the ones who signed the agreements for the purchase of the lots."

Paragraph 5 of the agreement in favor of Benito Liu expressly provides:

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Failure on the part of the VENDEE to pay three or more monthly installments when the same fall due, VENDOR may cancel this contract and VENDEE shall be only entitled to one-half (½) of what he has paid.

And paragraph 4 thereof expressly provides:

4. The balance of ₱3,000 shall be paid by VENDEE at the rate of ₱100.00 per month beginning with the end of January 1950 and every month thereafter . . .

Neither Benito Liu nor Frank Liu complied with the contract.

Thus, in our findings of facts in the Decision of 3 July 2003, we said:

Benito Liu subsequently paid installments totaling ₱2,900, leaving a balance of ₱1,000. Apparently, Benito Liu stopped further payments because Teodoro Vaño admitted his inability to transfer the lot titles to Benito Liu. Later, in a letter dated 16 October 1954, Teodoro Vaño informed Frank Liu that the Supreme Court had already declared valid the will of his father Jose Vaño. Thus, Teodoro Vaño could transfer the titles to the buyers' names upon payment of the balance of the purchase price.

When Frank failed to reply, Teodoro Vaño sent him another letter dated 1 January 1955, reminding him of his outstanding balance. It appears that it was only after nine years that Frank Liu responded through a letter dated 25 January 1964. In the letter, Frank Liu informed Teodoro Vaño that he was ready to pay the balance of the purchase price of the seven lots. He requested for the execution of a deed of sale of the lots in his name and the delivery of the titles to him.

On 22 April 1966, Benito Liu sold to Frank Liu five lots (Lot Nos. 5, 6, 13, 14 and 15 of Block 2) which Benito Liu purchased from Teodoro Vaño. Frank Liu assumed the balance of ₱1,000 for the five lots. Cirilo Pangalo likewise sold to Frank Liu the two lots (Lot nos. 14 and 15 of Block 11) that Pangalo purchased from Teodoro Vaño. Frank Liu likewise assumed the balance of ₱417 for the two lots.

On 21 March 1968, Frank Liu reiterated in a letter his request for Teodoro Vaño to execute the deed of sale covering the seven lots so he could secure the corresponding certificates of title in his name. He also requested for the construction of the subdivision roads pursuant

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to the original contract. In the letter, Frank Liu referred to another letter, dated 25 June 1966, which he allegedly sent to Teodoro Vaño. According to Frank Liu, he enclosed PBC Check No. D-782290 dated 6 May 1996 for ₱1,417, which is total balance of the accounts of Benito Liu and Cirilo Pangalo on the seven lots. However, Frank Liu did not offer in evidence the letter or the check. Frank Liu sent two other letters, dated 7 June 1968 and 29 July 1968, to Teodoro Vaño reiterating his request for the execution of the deed of sale in his favor but to no avail.

It is clear then that the agreement to sell between Teodoro Vaño as attorney-in-fact of Jose Vaño, made during the lifetime of Jose Vaño, was validly cancelled or rescinded. It follows that Benito Liu never became the owner of the lots covered by the agreement. Consequently, he could not sell the lots to petitioner Frank Liu on 22 April 1966. Therefore, the sale in favor of the latter was null and void. It could not bind the estate of Jose Vaño.

It would be grossly unfair and unjust that the estate of Jose Vaño should be made bound to honor an agreement to sell executed on 13 January 1950 in favor of Benito Liu who never completed the payment for the agreed purchase price. The so-called sale in favor of petitioner was only made more than sixteen (16) years later, or on 22 April 1966, long after the death of Jose Vaño, and long after Teodoro Vaño had lost his authority as attorney-in-fact because the power was not coupled with interest. Jose Vaño's death terminated Teodoro's power as attorney-in-fact.

Likewise, it follows that Benito Liu's deed of sale in petitioner's favor did not constitute a charge or claim against the estate of Jose Vaño.

Moreover, it is admitted that Teodoro Vaño was the sole and only heir of Jose Vaño. In such capacity he could sell a part of his rights, share and participation in the estate of Jose Vaño. Such sale is not void, but may only be rendered voidable in the event claims against estate may be impaired.

Furthermore, one should not lose sight of the fact that private respondents Alfredo Loy and Teresita Loy registered the deeds

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of sale in their favor, were issued transfer certificates of title in their names, declared the lots in their names for taxation purposes, religiously paid the taxes thereon, occupied the same and constructed a house thereon. Upon the other hand, petitioner Frank Liu did nothing of these. Article 1544 of the Civil Code provides:

> If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.
>
> Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
>
> Should there be no inscription the ownership shall pertain to the person who in good faith was first in the possession; and in the absence thereof, to the person who presents the oldest title, provided there is good faith.

The right of the Loys under the second and third paragraphs of Article 1544 is sought to be defeated by the claim that they acted in bad faith.

Again, petitioner Liu has not shown that the Loys had acted with bad faith. On the contrary, no less than the counsel for Frank Liu, Atty. Solon, candidly admitted in open court that the latter has no "positive" evidence to prove bad faith. Thus:

COURT

> *The plaintiff has some proof that the Loy spouses knew of the former transaction?*

ATTY. SOLON

> *Well, positive evidence, we do not have . . . because after this transaction, the plaintiff already resided in Davao and the communications were made between the plaintiff and Teodoro Vaño by letters, but there was no more personal communication. (TSN), 14 January 1977, 74-75).*

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More specifically, upon questioning by the court, Atty. Solon admitted that the only possible evidence of bad faith on the part of the Loys was the "filing for approval of a deed of sale," thus:

COURT

> *Your theory, Atty. Solon, is that the defendants Loys are buyers in bad faith?*

ATTY. SOLON

> *Yes, Your Honor.*

COURT

> *That they knew the former defect and yet they purchased the property?*

ATTY. SOLON

> *Yes, Your Honor, to the extent of filing for approval of a deed of sale. (TSN, 14 January 1977, 72-73).*

On the other hand, petitioner Frank Liu's acts proved that he was the one who acted in bad faith. First, he did not answer the letter of 16 October 1954 sent by Teodoro Vaño (Exh. "C"). Second, he did not likewise respond to Teodoro Vaño's letter of 1 January 1955 (Exh. "D"). It was only on 25 January 1964 when Liu wrote a letter to Teodoro, but only to express readiness to pay the balance of the purchase price of the seven lots and request for the execution of the deed of sale in his name (Exh. "E"). He did not pay. Then on 22 April 1966 and without paying the balance, he procured a deed of sale for five (5) of the seven lots from Benito Liu. Yet, he still did not pay the balance. And, it was only on 21 March 1968 that the petitioner reiterated in a letter to Teodoro Vaño (Exh. "F") his request for Teodoro to execute the deed of sale. In this letter he mentioned having enclosed in a letter dated 25 June 1966 of a PBC Check dated 6 May 1966 in the amount of ₱1,417 for the unpaid balance. Yet, he could not even offer in evidence either the letter or the check. While it is true that he sent two letters dated 7 June 1968 and 29 July 1968 to Teodoro Vaño reiterating his request for execution of the deed of sale, he did not make an offer for

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the payment of the balance of the unpaid portion of the consideration of the contract to sell.

If Frank Liu were sincere in his desire to pay the unpaid balance of the agreed purchase price, he could have consigned in court the amount due.

Finally, and probably to obtain relief from behind, petitioner Frank Liu filed before the Davao Court of First Instance on 2 December 1968 a complaint against Teodoro Vaño for specific performance, execution of deed of absolute sale, etc.

Needless to state, the evidence, the law and equity are on the side of the respondents Alfredo Loy, Jr. and Teresita Loy.

Accordingly, I vote to *GRANT* the Motion for Reconsideration filed by respondents Alfredo Loy, Jr. and Teresita Loy, and to *DENY* the instant petition.

THIRD DIVISION

[G.R. No. 152564. September 13, 2004]

EUGENIO BAUTISTA, ROMEO CRUZ and CARMENCITA B. CRUZ, *petitioners, vs.* **SUSANA MAG-ISA *Vda. DE* VILLENA,** *respondent.*

SYNOPSIS

The agricultural lot in question, designated as Lot No. 26, is situated at Poblacion, San Rafael, Bulacan, and covered by TCT No. RT-6304. Along with another parcel of land with an area of 2½ hectares, it was originally owned by the late Maria Lopez Caluag. The original tenant-tiller of the agricultural land was the late Aquilino Villena, husband of respondent, Susana Mag-Isa Villena. The tenancy relationship dated back to 1946 and continued even after the demise of Aquilino through his