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rentals, her complaint which, among others, prays for the payment of unpaid rentals, is justified. Thus, the award of attorney's and litigation expenses to respondent should be deleted.

WHEREFORE, the Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 77617, dated September 8, 2004 and August 16, 2006, respectively, are **AFFIRMED** with the following **MODIFICATIONS**: (1) respondent is **ORDERED** to pay petitioner ₱108,000.00 as and for unpaid rentals; (2) the award of attorney's fees and litigation expenses to respondent is **DELETED**.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Mendoza, and *Leonen, JJ.,* concur.

FIRST DIVISION

[G.R. No. 177783. January 23, 2013]

HEIRS OF FAUSTO C. IGNACIO, namely MARFEL D. IGNACIO-MANALO, MILFA D. IGNACIO-MANALO and FAUSTINO D. IGNACIO, *petitioners, vs.* **HOME BANKERS SAVINGS AND TRUST COMPANY, SPOUSES PHILLIP and THELMA RODRIGUEZ, CATHERINE, REYNOLD & JEANETTE, all surnamed ZUÑIGA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; ALLEGATION OF GRAVE ABUSE OF DISCRETION COMMITTED BY THE APPELLATE COURT NOT PROPER THEREIN BUT IN A PETITION FOR *CERTIORARI*.— It is to be noted that the x x x issues raised by petitioner alleged grave abuse of discretion committed by the CA, which is proper in a petition for *certiorari* under Rule

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65 of the 1997 Rules of Civil Procedure, as amended, but not in the present petition for review on *certiorari* under Rule 45.

2. CIVIL LAW; OBLIGATIONS AND CONTRACTS; PERFECTION OF CONTRACTS; ACCEPTANCE OF THE OFFER MUST BE ABSOLUTE FOR A QUALIFIED ACCEPTANCE IS INSUFFICIENT TO GENERATE CONSENT THAT WOULD PERFECT A CONTRACT; ELABORATED.— Contracts are perfected by mere consent, which is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The requisite acceptance of the offer is expressed in Article 1319 of the Civil Code which states: ART. 1319. Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and the acceptance absolute. A qualified acceptance constitutes a counter-offer. In *Palattao v. Court of Appeals,* this Court held that if the acceptance of the offer was not absolute, such acceptance is insufficient to generate consent that would perfect a contract. Thus: Contracts that are consensual in nature, like a contract of sale, are perfected upon mere meeting of the minds. Once there is concurrence between the offer and the acceptance upon the subject matter, consideration, and terms of payment, a contract is produced. The offer must be certain. To convert the offer into a contract, the acceptance must be absolute and must not qualify the terms of the offer; it must be plain, unequivocal, unconditional, and without variance of any sort from the proposal. A qualified acceptance, or one that involves a new proposal, constitutes a counter-offer and is a rejection of the original offer. Consequently, when something is desired which is not exactly what is proposed in the offer, such acceptance is not sufficient to generate consent because any modification or variation from the terms of the offer annuls the offer.

3. ID.; ID.; ID.; ID.; WHERE A PARTY SETS A DIFFERENT PURCHASE PRICE THAN THE AMOUNT OF THE OFFER, SUCH ACCEPTANCE WAS QUALIFIED WHICH CAN BE AT MOST CONSIDERED AS A COUNTER-OFFER; A PERFECTED CONTRACT WOULD HAVE ARISEN ONLY IF THE OTHER PARTY HAD ACCEPTED THIS COUNTER-OFFER; UNQUALIFIED ACCEPTANCE, MEANING THEREOF, ELUCIDATED.— The acceptance must be identical in all respects

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with that of the offer so as to produce consent or meeting of the minds. Where a party sets a different purchase price than the amount of the offer, such acceptance was qualified which can be at most considered as a counter-offer; a perfected contract would have arisen only if the other party had accepted this counter-offer. In *Villanueva v. Philippine National Bank* this Court further elucidated on the meaning of unqualified acceptance, as follows: …While it is impossible to expect the acceptance to ***echo*** every nuance of the offer, it is imperative that it assents to those points in the offer which, under the operative facts of each contract, are not only material but motivating as well. Anything short of that level of mutuality produces not a contract but a mere counter-offer awaiting acceptance. **More particularly on the matter of the consideration of the contract, the offer and its acceptance must be unanimous both on the rate of the payment and on its term.** An acceptance of an offer which agrees to the rate but varies the term is ineffective.

4. ID.; ID.; ID.; ID.; A QUALIFIED ACCEPTANCE IS CONSIDERED A COUNTER-PROPOSAL WHICH MUST BE ACCEPTED; CONFORMITY TO THE COUNTER-PROPOSAL MUST BE EVIDENCE BY ANY DOCUMENT OR WRITING OR SOME WORDS OR CONDUCT FROM THE ACCEPTING PARTY.— [P]etitioner's acceptance of the respondent bank's terms and conditions for the repurchase of the foreclosed properties was not absolute. Petitioner set a different repurchase price and also modified the terms of payment, which even contained a unilateral condition for payment of the balance (₱600,000), that is, depending on petitioner's "financial position." The CA thus considered the qualified acceptance by petitioner as a counter-proposal which must be accepted by respondent bank. However, there was no evidence of any document or writing showing the conformity of respondent bank's officers to this counter-proposal. x x x. In *Adelfa Properties, Inc. v. CA*, the Court ruled that: x x x The rule is that except where a **formal acceptance** is so required, although the acceptance must be affirmatively and clearly made and must be evidenced by some acts or conduct communicated to the offeror, it may be made either in a formal or an informal manner, and may be shown by acts, conduct, or words of the accepting party that clearly manifest a present intention or determination to accept the offer

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to buy or sell. Thus, acceptance may be shown by the acts, conduct, or words of a party recognizing the existence of the contract of sale.

5. ID.; ID.; ID.; ID.; UNLESS AUTHORIZED BY THE BOARD OF DIRECTORS, THE ACCEPTANCE OF THE OFFEROR'S COUNTER-PROPOSAL BY THE BANK OFFICER WILL NOT BIND THE BANK; A CORPORATION CAN ONLY EXECUTE ITS POWERS AND TRANSACT ITS BUSINESS THROUGH ITS BOARD OF DIRECTORS AND THROUGH ITS OFFICERS AND AGENT WHEN AUTHORIZED BY A BOARD RESOLUTION OR ITS BY-LAWS.— Even assuming that the bank officer or employee whom petitioner claimed he had talked to regarding the March 22, 1984 letter had acceded to his own modified terms for the repurchase, their supposed verbal exchange did not bind respondent bank in view of its corporate nature. There was no evidence that said Mr. Lazaro or Mr. Fajardo was authorized by respondent bank's Board of Directors to accept petitioner's counter-proposal to repurchase the foreclosed properties at the price and terms other than those communicated in the March 22, 1984 letter. As this Court ruled in *AF Realty & Development, Inc. v. Dieselman Freight Services, Co.* Section 23 of the Corporation Code expressly provides that the corporate powers of all corporations shall be exercised by the board of directors. Just as a natural person may authorize another to do certain acts in his behalf, so may the board of directors of a corporation validly delegate some of its functions to individual officers or agents appointed by it. Thus, contracts or acts of a corporation must be made either by the board of directors or by a corporate agent duly authorized by the board. Absent such valid delegation/authorization, the rule is that the declarations of an individual director relating to the affairs of the corporation, but not in the course of, or connected with, the performance of authorized duties of such director, are held not binding on the corporation. Thus, a corporation can only execute its powers and transact its business through its Board of Directors and through its officers and agents when authorized by a board resolution or its by-laws.

6. ID.; ID.; ID.; ID.; WHEN THERE IS MERELY AN OFFER BY ONE PARTY WITHOUT ACCEPTANCE OF THE OTHER, THERE IS NO CONTRACT; WHEN THE CONTRACT OF SALE IS NOT PERFECTED, IT CANNOT, AS AN INDEPENDENT

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SOURCE OF OBLIGATION, SERVE AS A BINDING JURIDICAL RELATION BETWEEN THE PARTIES.— In the absence of conformity or acceptance by properly authorized bank officers of petitioner's counter-proposal, no perfected repurchase contract was born out of the talks or negotiations between petitioner and Mr. Lazaro and Mr. Fajardo. Petitioner therefore had no legal right to compel respondent bank to accept the ₱600,000 being tendered by him as payment for the supposed balance of repurchase price. A contract of sale is consensual in nature and is perfected upon mere meeting of the minds. When there is merely an offer by one party without acceptance of the other, there is no contract. When the contract of sale is not perfected, it cannot, as an independent source of obligation, serve as a binding juridical relation between the parties.

APPEARANCES OF COUNSEL

Rossan S.J. Rosero-Lee for petitioners.

J.P. Villanueva Law Office and *Pizarras & Associates Law Offices* for respondents Zuñiga and Rodriguez.

Medialdea Bello & Guevarra Law Firm for Home Bankers Savings and Trust Co.

D E C I S I O N

VILLARAMA, JR., *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 assailing the Decision[1] dated July 18, 2006 and Resolution[2] dated May 2, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 73551. The CA reversed the Decision[3]

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[1] *Rollo*, pp. 47-70. Penned by Associate Justice Bienvenido L. Reyes (now a Member of this Court) with Associate Justices Regalado E. Maambong and Enrico A. Lanzanas concurring.

[2] *Id.* at 71-72.

[3] Records, Vol. 2, pp. 405-416. Penned by Judge Rodolfo R. Bonifacio.

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dated June 15, 1999 of the Regional Trial Court (RTC) of Pasig City, Branch 151 in Civil Case No. 58980.

The factual antecedents:

In August 1981, petitioner Fausto C. Ignacio mortgaged two parcels of land to Home Savings Bank and Trust Company, the predecessor of respondent Home Bankers Savings and Trust Company, as security for the ₱500,000.00 loan extended to him by said bank. These properties which are located in Cabuyao, Laguna are covered by Transfer Certificate of Title Nos. (T-40380) T-8595 and (T-45804) T-8350 containing an area of 83,303 square meters and 120,110 square meters, respectively.[4]

When petitioner defaulted in the payment of his loan obligation, respondent bank proceeded to foreclose the real estate mortgage. At the foreclosure sale held on January 26, 1983, respondent bank was the highest bidder for the sum of ₱764,984.67. On February 8, 1983, the Certificate of Sale issued to respondent bank was registered with the Registry of Deeds of Calamba, Laguna. With the failure of petitioner to redeem the foreclosed properties within one year from such registration, title to the properties were consolidated in favor of respondent bank. Consequently, TCT Nos. T-8595 and T-8350 were cancelled and TCT Nos. 111058 and 111059 were issued in the name of respondent bank.[5]

Despite the lapse of the redemption period and consolidation of title in respondent bank, petitioner offered to repurchase the properties. While the respondent bank considered petitioner's offer to repurchase, there was no repurchase contract executed. The present controversy was fuelled by petitioner's stance that a verbal repurchase/compromise agreement was actually reached and implemented by the parties.

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[4] Records, Vol. 1, pp. 59-70.

[5] *Supra* note 3 at 107-109, 118-119, 255-259.

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In the meantime, respondent bank made the following dispositions of the foreclosed properties already titled in its name:

TCT No. 111059 (Subdivided into six lots with individual titles – TCT Nos. 117771, 117772, 117773, 117774, 117775 and 117776)

A. TCT No. 117771 (16,350 sq.ms.) - Sold to Fermin Salvador and Bella Salvador under Deed of Absolute Sale dated May 23, 1984 for the price of ₱150,000.00

B. TCT No. 117772 (82,569 sq.ms. subdivided into 2 portions

1) Lot 3-B-1 (35,447 sq.ms.) - Sold to Dr. Oscar Remulla and Natividad Pagtakhan, Dr. Edilberto Torres and Dra. Rebecca Amores under Deed of Absolute Sale dated April 17, 1985 for the price of ₱150,000.00

2) Lot 3-B-2 covered by separate title TCT No. 124660 (Subdivided into 3 portions –

Lot 3-B-2-A (15,000 sq.ms.) - Sold to Dr. Myrna del Carmen Reyes under Deed of Absolute Sale dated March 23, 1987 for the price of ₱150,000.00

Lot 3-B-2-B (15,000 sq.ms.) - Sold to Dr. Rodito Boquiren under Deed of Absolute Sale dated March 23, 1987 for the price of ₱150,000.00

Lot 3-B-2-C (17,122 sq.ms.) covered by TCT No. T-154568 -

C. TCT No.117773 (17,232 sq.ms.) - Sold to Rizalina Pedrosa under Deed of Absolute Sale dated June 4, 1984 for the price of ₱150,000.00

The expenses for the subdivision of lots covered by TCT No. 111059 and TCT No. 117772 were shouldered by petitioner who likewise negotiated the above-mentioned sale transactions.

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The properties covered by TCT Nos. T-117774 to 117776 are still registered in the name of respondent bank.[6]

In a letter addressed to respondent bank dated July 25, 1989, petitioner expressed his willingness to pay the amount of ₱600,000.00 in full, as balance of the repurchase price, and requested respondent bank to release to him the remaining parcels of land covered by TCT Nos. 111058 and T-154658 ("subject properties").[7] Respondent bank however, turned down his request. This prompted petitioner to cause the annotation of an adverse claim on the said titles on September 18, 1989.[8]

Prior to the annotation of the adverse claim, on August 24, 1989, the property covered by TCT No. 154658 was sold by respondent bank to respondent spouses Phillip and Thelma Rodriguez, without informing the petitioner. On October 6, 1989, again without petitioner's knowledge, respondent bank sold the property covered by TCT No T-111058 to respondents Phillip and Thelma Rodriguez, Catherine M. Zuñiga, Reynold M. Zuñiga and Jeannette M. Zuñiga.[9]

On December 27, 1989, petitioner filed an action for specific performance and damages in the RTC against the respondent bank. As principal relief, petitioner sought in his original complaint the reconveyance of the subject properties after his payment of ₱600,000.00.[10] Respondent bank filed its Answer denying the allegations of petitioner and asserting that it was merely exercising its right as owner of the subject properties when the same were sold to third parties.

For failure of respondent bank to appear during the pre-trial conference, it was declared as in default and petitioner was allowed to present his evidence *ex parte* on the same date

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[6] *Id.* at 98-101 (Joint Stipulation of Facts), 118-127, 260-277.

[7] *Supra* note 4 at 85.

[8] *Id.* at 86.

[9] *Supra* note 3 at 110-112, 115-117,143-145.

[10] *Supra* note 4 at 6.

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(September 3, 1990). Petitioner simultaneously filed an "*Ex-Parte* Consignation" tendering the amount of ₱235,000.00 as balance of the repurchase price.[11] On September 7, 1990, the trial court rendered judgment in favor of petitioner. Said decision, as well as the order of default, were subsequently set aside by the trial court upon the filing of a motion for reconsideration by the respondent bank.[12]

In its Order dated November 19, 1990, the trial court granted the motion for intervention filed by respondents Phillip and Thelma Rodriguez, Catherine Zuñiga, Reynold Zuñiga and Jeannette Zuñiga. Said intervenors asserted their status as innocent purchasers for value who had no notice or knowledge of the claim or interest of petitioner when they bought the properties already registered in the name of respondent bank. Aside from a counterclaim for damages against the petitioner, intervenors also prayed that in the event respondent bank is ordered to reconvey the properties, respondent bank should be adjudged liable to the intervenors and return all amounts paid to it.[13]

On July 8, 1991, petitioner amended his complaint to include as alternative relief under the prayer for reconveyance the payment by respondent bank of the prevailing market value of the subject properties "less whatever remaining obligation due the bank by reason of the mortgage under the terms of the compromise agreement.[14]

On June 15, 1999, the trial court rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, findings *[sic]* the facts aver[r]ed in the complaint supported by preponderance of evidences adduced, judgment is hereby rendered in favor of the plaintiff and against the defendant and intervenors by:

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[11] *Id.* at 56-57.

[12] *Id.* at 98-105.

[13] *Id.* at 130-137, 144.

[14] *Id.* at 225-232, 236.

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1. Declaring the two Deeds of Sale executed by the defendant in favor of the intervenors as null and void and the Register of Deeds in Calamba, Laguna is ordered to cancel and/or annul the two Transfer Certificate of Titles No. T-154658 and TCT No. T-111058 issued to the intervenors.

2. Ordering the defendant to refund the amount of ₱1,004,250.00 to the intervenors as the consideration of the sale of the two properties.

3. Ordering the defendant to execute the appropriate Deed of Reconveyance of the two (2) properties in favor of the plaintiff after the plaintiff pays in full the amount of ₱600,000.00 as balance of the [re]purchase price.

4. Ordering the defendant bank to pay plaintiff the sum of ₱50,000.00 as attorney's fees

5. Dismissing the counterclaim of the defendant and intervenors against the plaintiff.

Costs against the defendant.

SO ORDERED.[15]

The trial court found that respondent bank deliberately disregarded petitioner's substantial payments on the total repurchase consideration. Reference was made to the letter dated March 22, 1984 (Exhibit "I")[16] as the authority for petitioner in making the installment payments directly to the Universal Properties, Inc. (UPI), respondent bank's collecting agent. Said court concluded that the compromise agreement amounts to a valid contract of sale between petitioner, as Buyer, and respondent bank, as Seller. Hence, in entertaining other buyers for the same properties already sold to petitioner with intention to increase its revenues, respondent bank acted in bad faith and is thus liable for damages to the petitioner. Intervenors were likewise found liable for damages as they failed to exercise due diligence before buying the subject properties.

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[15] *Supra* note 3 at 415-416.

[16] *Supra* note 4 at 70.

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Respondent bank appealed to the CA which reversed the trial court's ruling, as follows:

> WHEREFORE, the foregoing premises considered, the instant appeal is hereby GRANTED. Accordingly, the assailed decision is hereby REVERSED and SET ASIDE.
>
> SO ORDERED.[17]

The CA held that by modifying the terms of the offer contained in the March 22, 1984 letter of respondent bank, petitioner effectively rejected the original offer with his counter-offer. There was also no written conformity by respondent bank's officers to the amended conditions for repurchase which were unilaterally inserted by petitioner. Consequently, no contract of repurchase was perfected and respondent bank acted well within its rights when it sold the subject properties to herein respondents-intervenors.

As to the receipts presented by petitioner allegedly proving the installment payments he had completed, the CA said that these were not payments of the repurchase price but were actually remittances of the payments made by petitioner's buyers for the purchase of the foreclosed properties already titled in the name of respondent bank. It was noted that two of these receipts (Exhibits "K" and "K-1")[18] were issued to Fermin Salvador and Rizalina Pedrosa, the vendees of two subdivided lots under separate Deeds of Absolute Sale executed in their favor by the respondent bank. In view of the attendant circumstances, the CA concluded that petitioner acted merely as a broker or middleman in the sales transactions involving the foreclosed properties. Lastly, the respondents-intervenors were found to be purchasers who bought the properties in good faith without notice of petitioner's interest or claim. Nonetheless, since there was no repurchase contract perfected, the sale of the subject properties to respondents-intervenors remains valid and binding, and the issue of whether the latter were innocent purchasers for value would be of no consequence.

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[17] *Rollo*, p. 70.

[18] *Supra* note 3 at 52.

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Petitioner's motion for reconsideration was likewise denied by the appellate court.

Hence, this petition alleging that:

A.

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE FINDING OF THE TRIAL COURT THAT THERE WAS A PERFECTED CONTRACT TO REPURCHASE BETWEEN PETITIONER AND RESPONDENT-BANK.

B.

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE FINDING OF THE TRIAL COURT THAT PETITIONER DID NOT ACT AS BROKER IN THE SALE OF THE FORECLOSED PROPERTIES AND THUS FAILED TO CONSIDER THE EXISTENCE OF OFFICIAL RECEIPTS ISSUED IN THE NAME OF THE PETITIONER THAT ARE DULY NOTED FOR HIS ACCOUNT.

C.

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE FINDING OF THE TRIAL COURT THAT RESPONDENT-BANK DID NOT HAVE THE RIGHT TO DISPOSE THE SUBJECT PROPERTIES.

D.

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE FINDING OF THE TRIAL COURT THAT RESPONDENTS-INTERVENORS ARE NOT INNOCENT PURCHASERS FOR VALUE IN GOOD FAITH.[19]

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[19] *Rollo,* p. 23.

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It is to be noted that the above issues raised by petitioner alleged grave abuse of discretion committed by the CA, which is proper in a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure, as amended, but not in the present petition for review on *certiorari* under Rule 45.

The core issue for resolution is whether a contract for the repurchase of the foreclosed properties was perfected between petitioner and respondent bank.

The Court sustains the decision of the CA.

Contracts are perfected by mere consent, which is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract.[20] The requisite acceptance of the offer is expressed in Article 1319 of the Civil Code which states:

> ART. 1319. Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and the acceptance absolute. A qualified acceptance constitutes a counter-offer.

In *Palattao v. Court of Appeals*,[21] this Court held that if the acceptance of the offer was not absolute, such acceptance is insufficient to generate consent that would perfect a contract. Thus:

> Contracts that are consensual in nature, like a contract of sale, are perfected upon mere meeting of the minds. Once there is concurrence between the offer and the acceptance upon the subject matter, consideration, and terms of payment, a contract is produced. The offer must be certain. To convert the offer into a contract, the acceptance must be absolute and must not qualify the terms of the offer; it must be plain, unequivocal, unconditional, and without variance of any sort from the proposal. A qualified acceptance, or one that involves a new proposal, constitutes a counter-offer and is

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[20] *Swedish Match, AB v. Court of Appeals*, G.R. No. 128120, October 20, 2004, 441 SCRA 1, 18, citing *Gomez v. Court of Appeals*, G.R. No. 120747, September 21, 2000, 340 SCRA 720.

[21] G.R. No. 131726, May 7, 2002, 381 SCRA 681.

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a rejection of the original offer. Consequently, when something is desired which is not exactly what is proposed in the offer, such acceptance is not sufficient to generate consent because any modification or variation from the terms of the offer annuls the offer.[22]

The acceptance must be identical in all respects with that of the offer so as to produce consent or meeting of the minds.[23] Where a party sets a different purchase price than the amount of the offer, such acceptance was qualified which can be at most considered as a counter-offer; a perfected contract would have arisen only if the other party had accepted this counter-offer.[24] In *Villanueva v. Philippine National Bank*[25] this Court further elucidated on the meaning of unqualified acceptance, as follows:

> …While it is impossible to expect the acceptance to ***echo*** every nuance of the offer, it is imperative that it assents to those points in the offer which, under the operative facts of each contract, are not only material but motivating as well. Anything short of that level of mutuality produces not a contract but a mere counter-offer awaiting acceptance. **More particularly on the matter of the consideration of the contract, the offer and its acceptance must be unanimous both on the rate of the payment and on its term.** An acceptance of an offer which agrees to the rate but varies the term is ineffective.[26] (Emphasis supplied)

Petitioner submitted as evidence of a perfected contract of repurchase the March 22, 1984 letter (Exhibit "I")[27] from Rita B. Manuel, then President of UPI, a corporation formed by respondent bank to dispose of its acquired assets, with notations handwritten by petitioner himself. Said letter reads:

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[22] *Id.* at 691.

[23] *Manila Metal Container Corporation v. Philippine National Bank*, G.R. No. 166862, December 20, 2006, 511 SCRA 444, 466.

[24] *Id.* at 468.

[25] G.R. No. 154493, December 6, 2006, 510 SCRA 275.

[26] *Id.* at 281-282 , citing *Swedish Match, AB v. Court of Appeals*, *Supra* note 20 at 19 and *Marnelego v. Banco Filipino Savings and Mortgage Bank*, G.R. No. 161524, January 27, 2006, 480 SCRA 399, 408.

[27] *Supra* note 16.

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March 22, 1984

Honorable Judge Fausto Ignacio
412 Bagumbayan Street, Pateros
Metro Manila

Dear Judge Ignacio:

Your proposal to repurchase your foreclosed properties located at Cabuyao, Laguna consisting of a total area of 203,413 square meters has been favorably considered subject to the following terms and conditions:

1) Total Selling Price shall be ₱950,000.00

2) Downpayment of ₱150,00000 with the balance
Payable in Three (3) equal installments
as follows:
1st Installment – ₱ 266,667 - on or before May 31, '84
2nd Installment – ₱ 266,667 - on or before Sept. 31, '84
3rd Installment – ₱ 266,666 - on or before Jan. 30, '85

TOTAL - ₱ 800,000.00

3) All expenses pertinent to the subdivision of the parcel of land consisting of 120,110 square meters shall be for your account.

Thank you,

Very truly yours,

RITA B. MANUEL
President

According to petitioner, he wrote the notations in the presence of a certain Mr. Lazaro, the representative of Mrs. Manuel (President), and a certain Mr. Fajardo, which notations supposedly represent their "compromise agreement."[28] These notations

[28] TSN, February 19, 1993, pp. 22-23.

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indicate that the repurchase price would be ₱900,000.00 which shall be paid as follows: ₱150,000 – end of May '84; ₱150,000 – end of June '84; Balance – "Depending on financial position". Petitioner further alleged the following conditions of the verbal agreement: (1) respondent bank shall release the equivalent land area for payments made by petitioner who shall shoulder the expenses for subdivision of the land; (2) in case any portion of the subdivided land is sold by petitioner, a separate document of sale would be executed directly to the buyer; (3) the remaining portion of the properties shall not be subject of respondent bank's transaction without the consent and authority of petitioner; (4) the petitioner shall continue in possession of the properties and whatever portion still remaining, and attending to the needs of its tenants; and (5) payments shall be made directly to UPI.[29]

The foregoing clearly shows that petitioner's acceptance of the respondent bank's terms and conditions for the repurchase of the foreclosed properties was not absolute. Petitioner set a different repurchase price and also modified the terms of payment, which even contained a unilateral condition for payment of the balance (₱600,000), that is, depending on petitioner's "financial position." The CA thus considered the qualified acceptance by petitioner as a counter-proposal which must be accepted by respondent bank. However, there was no evidence of any document or writing showing the conformity of respondent bank's officers to this counter-proposal.

Petitioner contends that the receipts issued by UPI on his installment payments are concrete proof -- despite denials to the contrary by respondent bank -- that there was an implied acceptance of his counter-proposal and that he did not merely act as a broker for the sale of the subdivided portions of the foreclosed properties to third parties. Since all these receipts, except for two receipts issued in the name of Fermin Salvador and Rizalina Pedrosa, were issued in the name of petitioner instead of the buyers themselves, petitioner emphasizes that the payments were made for his account. Moreover, petitioner asserts that the execution of the separate deeds of sale directly to the buyers was in pursuance of the perfected

[29] Amended Complaint, *supra* note 4 at 227.

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repurchase agreement with respondent bank, such an arrangement being "an accepted practice to save on taxes and shortcut paper works."

The Court is unconvinced.

In *Adelfa Properties, Inc. v. CA*,[30] the Court ruled that:

> x x x The rule is that except where a **formal acceptance** is so required, although the acceptance must be affirmatively and clearly made and must be evidenced by some acts or conduct communicated to the offeror, it may be made either in a formal or an informal manner, and may be shown by acts, conduct, or words of the accepting party that clearly manifest a present intention or determination to accept the offer to buy or sell. Thus, acceptance may be shown by the acts, conduct, or words of a party recognizing the existence of the contract of sale.[31]

Even assuming that the bank officer or employee whom petitioner claimed he had talked to regarding the March 22, 1984 letter had acceded to his own modified terms for the repurchase, their supposed verbal exchange did not bind respondent bank in view of its corporate nature. There was no evidence that said Mr. Lazaro or Mr. Fajardo was authorized by respondent bank's Board of Directors to accept petitioner's counter-proposal to repurchase the foreclosed properties at the price and terms other than those communicated in the March 22, 1984 letter. As this Court ruled in *AF Realty & Development, Inc. v. Dieselman Freight Services, Co.*[32]

> Section 23 of the Corporation Code expressly provides that the corporate powers of all corporations shall be exercised by the board of directors. Just as a natural person may authorize another to do certain acts in his behalf, so may the board of directors of a corporation validly delegate some of its functions to individual officers or agents appointed by it. Thus, contracts or acts of a corporation must be made either by the board of directors or by a corporate agent duly authorized by the board. Absent such valid delegation/authorization, the rule is that the declarations of an individual director relating to the affairs of the corporation, but not in the course of, or connected with, the performance

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[30] 310 Phil. 623 (1995).

[31] *Id.* at 642.

[32] 424 Phil. 446 (2002).

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of authorized duties of such director, are held not binding on the corporation.[33]

Thus, a corporation can only execute its powers and transact its business through its Board of Directors and through its officers and agents when authorized by a board resolution or its by-laws.[34]

In the absence of conformity or acceptance by properly authorized bank officers of petitioner's counter-proposal, no perfected repurchase contract was born out of the talks or negotiations between petitioner and Mr. Lazaro and Mr. Fajardo. Petitioner therefore had no legal right to compel respondent bank to accept the ₱600,000 being tendered by him as payment for the supposed balance of repurchase price.

A contract of sale is consensual in nature and is perfected upon mere meeting of the minds. When there is merely an offer by one party without acceptance of the other, there is no contract.[35] When the contract of sale is not perfected, it cannot, as an independent source of obligation, serve as a binding juridical relation between the parties.[36]

In sum, we find the ruling of the CA more in accord with the established facts and applicable law and jurisprudence. Petitioner's claim of utmost accommodation by respondent bank of his own terms for the repurchase of his foreclosed properties are simply contrary to normal business practice. As aptly observed by the appellate court:

The submission of the plaintiff-appellee is unimpressive.

First, if the counter-proposal was mutually agreed upon by both the plaintiff-appellee and defendant-appellant, how come not a single signature of the representative of the defendant-appellant was affixed

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[33] *Id.* at 454.

[34] *Manila Metal Container Corporation v. Philippine National Bank, supra* note 23 at 467-468, citing *Firme v. Bukal Enterprises and Development Corporation*, G.R. No. 146608, October 23, 2003, 414 SCRA 190.

[35] *Id.* at 464.

[36] *Id.* citing *Boston Bank of the Philippines v. Manalo*, G.R. No. 158149, February 9, 2006, 482 SCRA 108, 129.

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thereto. Second, it is inconceivable that an agreement of such great importance, involving two personalities who are both aware and familiar of the practical and legal necessity of reducing agreements into writing, the plaintiff-appellee, being a lawyer and the defendant-appellant, a banking institution, not to formalize their repurchase agreement. Third, it is quite absurd and unusual that the defendant-appellant could have acceded to the condition that the balance of the payment of the repurchase price would depend upon the financial position of the plaintiff-appellee. Such open[-]ended and indefinite period for payment is hardly acceptable to a banking institution like the defendant-appellant whose core existence fundamentally depends upon its financial arrangements and transactions which, most, if not all the times are intended to bear favorable outcome to its business. Last, had there been a repurchase agreement, then, there should have been titles or deeds of conveyance issued in favor of the plaintiff-appellee. But as it turned out, the plaintiff-appellee never had any land deeded or titled in his name as a result of the alleged repurchase agreement. All these, reinforce the conclusion that the counter-proposal was unilaterally made and inserted by the plaintiff-appellee in Exhibit "I" and could not have been accepted by the defendant-appellant, and that a different agreement other than a repurchase agreement was perfected between them.[37]

Petitioner Fausto C. Ignacio passed away on November 11, 2008 and was substituted by his heirs, namely: Marfel D. Ignacio-Manalo, Milfa D. Ignacio-Manalo and Faustino D. Ignacio.

WHEREFORE, the petition for review on *certiorari* is **DENIED**. The Decision dated July 18, 2006 and Resolution dated May 2, 2007 of the Court of Appeals in CA-G.R. CV No. 73551 are hereby **AFFIRMED**.

With costs against the petitioners.

SO ORDERED.

Sereno, C.J. (Chairperson), Carpio,[*] *Leonardo-de Castro,* and *Bersamin, JJ.,* concur.

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[37] *Rollo,* pp. 66-67.

[*] Designated additional member per Raffle dated January 14, 2013 vice Associate Justice Bienvenido L. Reyes who recused himself from the case due to prior action in the Court of Appeals.