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Commissioner specifically authorized those revenue officials, who purportedly accepted and approved SBC's offer of payment, to compromise the DST on sale of securities, which, to stress, were not included in the Compromise Agreement of August 15, 1988 by delegating his power to compromise said DST assessment on securities. This *ultra vires* act of those revenue officials cannot have any valid and binding legal effect upon the BIR, so as to proscribe the latter from issuing the assailed reassessment of unpaid DST on the sales of securities under repurchase agreements for the year 1983.

WHEREFORE, the petition is *DENIED* and the assailed CA Decision dated August 29, 1997 is *AFFIRMED in toto*.

Costs against petitioner.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, Corona, and *Azcuna, JJ.,* concur.

SECOND DIVISION

[G.R. No. 150350. August 22, 2006]

KOJI YASUMA, *petitioner, vs.* **HEIRS OF CECILIO S. DE VILLA and EAST CORDILLERA MINING CORPORATION,** *respondents.*

SYLLABUS

1. COMMERCIAL LAW; CORPORATION LAW; BOARD OF DIRECTORS AND TRUSTEES; CONTROL AND FUNCTIONS.— A corporation is a juridical person, separate and distinct from its stockholders. Being a juridical entity, a corporation may act through its board of directors, as provided in Section 23 of the

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Corporation Code of the Philippines: "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 The corporation can also act through its corporate officers who may be authorized either expressly by the by-laws or board resolutions or impliedly such as by general practice or policy or as are implied from express powers.

2. **ID.; ID.; ID.; UNAUTHORIZED ACTS THEREOF CANNOT BIND THE CORPORATION; RATIFICATION THEREOF CAN BE MADE EITHER EXPRESSLY OR IMPLIEDLY.**— The general principles of agency govern the relation between the corporation and its officers or agents. When authorized, their acts can bind the corporation. Conversely, when unauthorized, their acts cannot bind it. However, the corporation may ratify the unauthorized act of its corporate officer. Ratification means that the principal voluntarily adopts, confirms and gives sanction to some unauthorized act of its agent on its behalf. It is this voluntary choice, knowingly made, which amounts to a ratification of what was theretofore unauthorized and becomes the authorized act of the party so making the ratification. The substance of the doctrine is confirmation after conduct, amounting to a substitute for a prior authority. Ratification can be made either expressly or impliedly. Implied ratification may take various forms — like silence or acquiescence, acts showing approval or adoption of the act, or acceptance and retention of benefits flowing therefrom.

3. **ID.; ID.; ID.; POWER THEREOF TO BORROW MONEY REQUIRES A SPECIAL POWER OF ATTORNEY (SPA); SPA ABSENT IN CASE AT BAR AND THE SAME WAS NOT RATIFIED BY THE CORPORATION.**— The power to borrow money is one of those cases where corporate officers as agents of the corporation need a special power of attorney. In the case at bar, no special power of attorney conferring authority on de Villa was ever presented. The promissory notes evidencing the loans were signed by de Villa (who was the president of respondent corporation) as borrower without indicating in what capacity he was signing them. In fact, there was no mention at all of respondent corporation. On their face, they appeared to be personal loans of de Villa. Petitioner, however, contends

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that respondent corporation's admission that it received the total amount of ₱1.3 million was effectively a ratification of the act of its former president. The CA held that this admission was not tantamount to ratification because what respondent corporation admitted was that the money was in fact received as an investment. There was no showing that respondent corporation ever authorized de Villa to obtain the loans on its behalf. The notes did not show that de Villa acted on behalf of the corporation. Actually, the corporation would not have figured in the transaction at all had it not been for its admission that it received the amount of ₱1.3 million. As could be gleaned from the promissory notes, it was a stranger to the transaction. The fact that the corporation admitted receiving the proceeds of the loan did not amount to ratification of the loan. It accepted the amount from de Villa, its president at that time, in good faith. Good faith is always presumed. Petitioner did not show that the corporation acted in bad faith.

4. **ID.; ID.; ID.; POWER THEREOF TO EXECUTE A MORTGAGE REQUIRES A SPECIAL POWER OF ATTORNEY.**— A special power of attorney is necessary to create or convey real rights over immovable property. Furthermore, the special power of attorney must appear in a public document. In the absence of a special power of attorney in favor of de Villa as president of the corporation, no valid mortgage could have been executed by him. Since the mortgage was void, it could not be ratified.

5. **ID.; ID.; ID.; UNAUTHORIZED ACTS THEREOF NOT BINDING TO THE CORPORATION IS A PERSONAL LIABILITY; PROPER REMEDY AGAINST DECEASED ACCOUNTABLE PERSONS IS TO FILE CLAIM AGAINST HIS ESTATE.**— Given that the loan and mortgage were not binding on respondent corporation, the latter cannot be held liable for interest, attorney's fees and liquidated damages arising from the loan. The liability arising from the loan was the sole indebtedness of de Villa (or of his estate after his death). Petitioner vigorously sought to make respondent corporation liable but exerted no effort at all to argue for the liability of respondent heirs. The trial court correctly dismissed the case against the latter. Petitioner's remedy now is to file a money claim in the settlement proceedings of de Villa's estate, if not too late, as indicated in Rule 86 of the Rules of Court.

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APPERANCES OF COUNSEL

Glenn R. Subia for petitioner.

Estella & Virtudazo Law Firm for East Cordillera Mining Corp.

Sergio R. Manzo for Heirs of C.S. De Villa.

D E C I S I O N

CORONA, *J.*:

This is a petition for review on *certiorari*[1] of a decision[2] of the Court of Appeals (CA) dated October 18, 2001 in CA-G.R. CV No. 61755.

The antecedent facts follow.

On September 15, 1988, October 21, 1988 and December 5, 1988, Cecilio S. de Villa obtained loans from petitioner Koji Yasuma in the amounts of ₱1,100,000, ₱100,000 and ₱100,000, respectively, for the total amount of ₱1.3 million. These loans were evidenced by three promissory notes signed by de Villa as borrower. The last promissory note in the amount of ₱1,300,000 cancelled the first two notes.

The loans were initially secured by three separate real estate mortgages on a parcel of land with Transfer Certificate of Title No. 176575 in the name of respondent East Cordillera Mining Corporation. The deeds of mortgage were executed on the dates the loans were obtained, signed by de Villa as president of respondent corporation. The third real estate mortgage later cancelled the first two.[3]

For failure of de Villa to pay, petitioner filed a collection suit in the Regional Trial Court of Makati City, Branch 148

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[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Eloy R. Bello, Jr. and concurred in by Associate Justices Perlita J. Tria-Tirona (retired) and Amelita G. Tolentino of the Special Eighth Division of the Court of Appeals; *rollo*, pp. 34-46.

[3] *Id.*, pp. 35-36.

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(RTC-Br. 148) against de Villa and respondent corporation.[4] The RTC-Br. 148 declared de Villa and respondent corporation in default and resolved the case in favor of petitioner. On appeal, however, the judgment of RTC-Br. 148 was annulled on the ground of improper service of summons.[5] Thus, the case was remanded for retrial.

During the pendency of the case in the RTC-Br. 148, de Villa died. Petitioner consequently amended the complaint and impleaded the heirs of de Villa as defendants.[6]

After the case was re-heard, the RTC of Makati City, Branch 139 (RTC-Br. 139) rendered judgment on November 13, 1998 in favor of petitioner and against respondent corporation. It ordered respondent corporation to pay petitioner ₱1.3 million plus legal interest, attorney's fees, liquidated damages and costs of suit. The complaint was dismissed against respondent heirs.[7]

On appeal, the CA reversed and set aside the decision of RTC-Br. 139. It held that the loan was personal to de Villa and that the mortgage was null and void for lack of authority from the corporation.

Petitioner is now before this Court with the following assignment of errors:

1. THE [CA], WITH ALL DUE RESPECT, COMMITTED PALPABLE AND REVERSIBLE ERROR OF LAW WHEN IT DECLARED THAT THE CORPORATION DID NOT RATIFY THE ACT OF ITS PRESIDENT IN OBTAINING LOANS FROM PETITIONER DESPITE ITS ADMISSION THAT IT RECEIVED THE MONEY OF THE PETITIONER.
2. THE [CA], WITH ALL DUE RESPECT, COMMITTED PALPABLE AND REVERSIBLE ERROR OF LAW WHEN IT TOTALLY DISREGARDED THE ADMITTED FACTS AND ISSUES AGREED

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[4] Docketed as Civil Case No. 90-1837.

[5] *Rollo*, pp. 13, 35.

[6] *Id.*, p. 35.

[7] *Id.*, p. 34.

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UPON BY THE PARTIES AND APPROVED BY THE TRIAL COURT DURING THE PRE-TRIAL.

3. THE [CA], WITH ALL DUE RESPECT, COMMITTED PALPABLE AND REVERSIBLE ERROR OF LAW WHEN IT SET ASIDE THE REAL ESTATE MORTGAGE AND THE AWARD OF ATTORNEY'S FEES, 10% LIQUIDATED DAMAGES AND THE COSTS OF SUIT.

4. THE [CA], WITH ALL DUE RESPECT, COMMITTED PALPABLE AND REVERSIBLE ERROR OF LAW WHEN IT SET ASIDE THE AWARD OF INTEREST BY WAY OF DAMAGES IN FAVOR OF PETITIONER.[8]

The issues to be resolved are the following:

1) whether the loans were personal liabilities of de Villa or debts of respondent corporation and

2) whether the mortgage on respondent corporation's property was null and void for having been executed without its authority.

We begin with a brief study of some well-settled legal doctrines relevant to the disposition of this case.

PERSONAL OR CORPORATE LIABILITY?

A corporation is a juridical person, separate and distinct from its stockholders. Being a juridical entity, a corporation may act through its board of directors, as provided in Section 23 of the Corporation Code of the Philippines:[9]

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

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[8] *Id.*, p. 15.

[9] Batas Pambansa Blg. 68.

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The corporation can also act through its corporate officers who may be authorized either expressly by the by-laws or board resolutions or impliedly such as by general practice or policy or as are implied from express powers.[10] The general principles of agency govern the relation between the corporation and its officers or agents.[11] When authorized, their acts can bind the corporation. Conversely, when unauthorized, their acts cannot bind it.

However, the corporation may ratify the unauthorized act of its corporate officer.[12] Ratification means that the principal voluntarily adopts, confirms and gives sanction to some unauthorized act of its agent on its behalf. It is this voluntary choice, knowingly made, which amounts to a ratification of what was theretofore unauthorized and becomes the authorized act of the party so making the ratification.[13] The substance of the doctrine is confirmation after conduct, amounting to a substitute for a prior authority.[14] Ratification can be made either expressly or impliedly. Implied ratification may take various forms — like silence or acquiescence, acts showing approval or adoption of the act, or acceptance and retention of benefits flowing therefrom.[15]

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[10] *Rural Bank of Milaor (Camarines Sur) v. Ocfemia*, 381 Phil. 911 (2000), concurring opinion of *J.* Vitug.

[11] *San Juan Structural and Steel Fabricators, Inc. v. Court of Appeals*, 357 Phil. 631 (1998), citations omitted.

[12] The acts of an agent beyond the scope of his authority do not bind the principal unless the latter ratifies the same expressly or impliedly (see Arts. 1898 and 1910 of the Civil Code). See also *Safic Alcan & Cie v. Imperial Vegetable Oil Co., Inc.*, G.R. No. 126751, 28 March 2001, 355 SCRA 559, 568.

[13] *Maglucot-Aw v. Maglucot*, 385 Phil. 720 (2000), citing *Hampshire County Trust Co. of North Hampton, Mass., et al. v. Stevenson, et al.*, 150 N.E. 726.

[14] *Manila Memorial Park Cemetery, Inc. v. Linsangan*, G.R. No. 151319, 22 November 2004, 443 SCRA 377, 394.

[15] *Metropolitan Waterworks and Sewerage System (MWSS) v. Court of Appeals*, G.R. Nos. 126000 and 128520, 7 October 1998, 297 SCRA 287.

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The power to borrow money is one of those cases where corporate officers as agents of the corporation need a special power of attorney.[16] In the case at bar, no special power of attorney conferring authority on de Villa was ever presented. The promissory notes evidencing the loans were signed by de Villa (who was the president of respondent corporation) as borrower without indicating in what capacity he was signing them. In fact, there was no mention at all of respondent corporation. On their face, they appeared to be personal loans of de Villa.

Petitioner, however, contends that respondent corporation's admission that it received the total amount of ₱1.3 million was effectively a ratification of the act of its former president.[17] It appears that, in the pre-trial order dated March 4, 1997 issued by RTC-Br. 139, respondent corporation indeed admitted the following:

x x x x x x x x x

3. Defendants ADMIT that the total amount of ₱1.3 Million subject matter of the Promissory Notes was RECEIVED by the Defendant-Corporation;[18] (emphasis supplied)

x x x x x x x x x

In its answer, respondent corporation stated:

7. The sum of money which [petitioner] sought to recover form herein [respondents] is not really a loan but his investment to the mining project of [respondent] corporation which unfortunately did not succeed due to the delays caused by typhoons and bad rainy season in the Benguet mountains causing landslides in the mining and milling site during the latter part of 1988, and the killer earthquake of 1990

307, citing *Prime White Cement Corporation v. Intermediate Appellate Court*, G.R. No. 68555, 19 March 1993, 220 SCRA 103.

[16] *Aguenza v. Metropolitan Bank & Trust Co.*, 337 Phil. 448 (1997), citing Art. 1878 (7), Civil Code of the Philippines.

[17] *Rollo*, p. 16.

[18] Pre-Trial Order, *id.*, p. 50.

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which destroyed the mining area. As investment to a losing business venture, he is not entitled to claim payment neither could he treat it as a loan.[19]

The CA held that this admission was not tantamount to ratification because what respondent corporation admitted was that the money was in fact received as an investment. It concluded that:

> ... even if the [respondent corporation] received the money, it cannot be held responsible for not knowing the preceding transaction between the [p]resident and the [petitioner] as in fact there was a misrepresentation made to the [respondent corporation], to the effect that the money was an investment and not a loan. The alleged investment is actually a personal loan of Cecilio de Villa.[20]

Petitioner's contention has no merit. There was no showing that respondent corporation ever authorized de Villa to obtain the loans on its behalf. The notes did not show that de Villa acted on behalf of the corporation. Actually, the corporation would not have figured in the transaction at all had it not been for its admission that it received the amount of ₱1.3 million. As could be gleaned from the promissory notes, it was a stranger to the transaction.

Thus, we conclude that petitioner himself did not consider the corporation to be his debtor for if he really knew that de Villa was obtaining the loan on behalf of the corporation, then why did he allow the notes to reflect only the personal liability of de Villa?[21] Even the demand letters of petitioner were personally addressed to de Villa and not to respondent

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[19] *Rollo*, p. 54.

[20] *Id.*, p. 42.

[21] This is why the instant case is different from *de Asis & Co., Inc. v. Court of Appeals* (G.R. No. 61549, 27 May 1985, 136 SCRA 599) which petitioner insists is squarely in point. In *de Asis*, there was no promissory note to evidence the loan but the creditor knew all along that the debtor was the corporation and not its president. In fact, she deposited the amount of the loan directly in the account of the corporation.

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corporation.[22] Undoubtedly, petitioner dealt with de Villa purely in his personal capacity.

Respondent corporation could not have ratified the act of de Villa because there was no proof that it knew of the loan on its behalf. As stated earlier, ratification is a voluntary choice that is knowingly made. The corporation cannot ratify an act it has no knowledge of:

xxx xxx xxx

Ordinarily, the principal must have full knowledge at the time of ratification of all the material facts and circumstances relating to the unauthorized act of the person who assumed to act as agent. Thus, if material facts were suppressed or unknown, there can be no valid ratification ....[23]

The fact that the corporation admitted receiving the proceeds of the loan did not amount to ratification of the loan. It accepted the amount from de Villa, its president at that time, in good faith. Good faith is always presumed.[24] Petitioner did not show that the corporation acted in bad faith.

It follows that respondent corporation was not liable for the subsequent loss of the money which it accepted as an investment. It could not be faulted for not knowing that it was the proceeds of a loan obtained by de Villa. It was under no obligation to check the source of the investments which went into its coffers. As long as the investment was used for legitimate corporate purposes, the investor bore the risk of loss.

Therefore, on the first issue, the loan was personal to de Villa. There was no basis to hold the corporation liable since there was no authority, express, implied or apparent, given to

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[22] *Rollo*, p. 175.

[23] *Supra* at note 14, p. 394.

[24] *Rivera v. Santiago, et al.*, G.R. No. 146501, 28 August 2003, 410 SCRA 113, 123-124, citing *Seno v. Mangubat*, 2 December 1987, 158 SCRA 113, 127.

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de Villa to borrow money from petitioner. Neither was there any subsequent ratification of his act.

WAS THE MORTGAGE VALID OR VOID?

Petitioner insists that the mortgage executed by de Villa, as president of the corporation, was ratified by the latter since the mortgage was an accessory contract of the loan.[25] We disagree.

A special power of attorney is necessary to create or convey real rights over immovable property. [26] Furthermore, the special power of attorney must appear in a public document.[27] In the absence of a special power of attorney in favor of de Villa as president of the corporation, no valid mortgage could have been executed by him.[28] Since the mortgage was void, it could not be ratified.

Petitioner cannot blame anyone but himself. He did not check if the person he was dealing with had the authority to mortgage the property being offered as collateral.

Given that the loan and mortgage were not binding on respondent corporation, the latter cannot be held liable for interest, attorney's fees and liquidated damages arising from the loan.

PERSONAL LIABILITY OF DE VILLA

The liability arising from the loan was the sole indebtedness of de Villa (or of his estate after his death). Petitioner vigorously sought to make respondent corporation liable but exerted no effort at all to argue for the liability of respondent heirs. The

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[25] *Rollo*, pp. 23 and 192.

[26] Art. 1878 (12), Civil Code of the Philippines.

[27] *Id.*, Art. 1358 (1).

[28] See *Apex Investment and Financing Corporation v. Intermediate Appellate Court*, G.R. No. 69723, 18 October 1988, 166 SCRA 458; *Metropolitan Bank & Trust Company v. Quilts & All, Inc.*, G.R. No. 91436, 24 May 1993, 222 SCRA 486, 492, dissenting opinion of J. Davide.

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trial court correctly dismissed the case against the latter. Petitioner's remedy now is to file a money claim in the settlement proceedings of de Villa's estate, if not too late, as indicated in Rule 86[29] of the Rules of Court.

WHEREFORE, the petition is hereby *DENIED*. The October 18, 2001 decision of the Court of Appeals in CA-G.R. CV No. 61755 is *AFFIRMED*.

Costs against petitioner.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, and *Garcia, JJ.*, concur.

Azcuna, J., on official business.

SECOND DIVISION

[G.R. No. 150812. August 22, 2006]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **CITYTRUST BANKING CORPORATION,** *respondent.*

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[29] Sec. 5. Claims which must be filed under the notice. If not filed, barred; exceptions. — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expenses for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants . . .