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**FIRST DIVISION**

[G.R. No. 117847. October 7, 1998]

**PEOPLE'S AIRCARGO AND WAREHOUSING CO. INC.,** *petitioner, vs.* **COURT OF APPEALS and STEFANI SAÑO,** *respondents.*

**SYNOPSIS**

Petitioner is a domestic corporation formed to operate a customs bonded warehouse. To obtain a license for the corporation from the Bureau of Customs, Antonio Punsalan, Jr., the corporation president, solicited a proposal from private respondent for the preparation of a feasibility study. Petitioner, through Punsalan, sent private respondent a letter confirming the first letter proposal (first contract) of the private respondent. Private respondent prepared a feasibility study for petitioner, which eventually paid him the balance of the contract price, although not according to the schedule agreed upon. Punsalan requested another letter proposal, which was herein referred to as second contract. Punsalan meanwhile sold his shares in petitioner-corporation and resigned as its president. Private respondent filed a collection suit against petitioner. He alleged that he had prepared an operations manual for petitioner, conducted a seminar-workshop for its employees and delivered to it a computer program; but that, despite demand, petitioner refused to pay him for his services. The trial court declared the Second Contract unenforceable or simulated. However, ₱60,000.00 was awarded to private respondent on the ground that no one should be unjustly enriched at the expense of another. Private respondent appealed to the Court of Appeals (CA). Rejecting the findings of the trial court, the CA ruled in favor of the validity and enforceability of the contract. According to the CA, the president of petitioner-corporation entered into the First Contract, which was similar to the Second Contract. Thus, petitioner had clothed its president with apparent authority to enter into the disputed agreement. Disagreeing with the CA, petitioner lodged this petition before the Supreme Court. Petitioner does not contest its liability; it merely disputes the amount of such accountability. The issue rests solely on the enforceability and validity of the Second Contract.

Supreme Court E-Library



The Supreme Court agreed with the appellate court that the alleged "badges of fraud" had not affected in any manner the perfection of the Second Contract or proved the alleged simulation thereof. Contemporaneous and subsequent acts are also principal factors in the determination of the will of the contracting parties. The circumstances of the case do not establish any intention to simulate the contract in dispute. On the contrary, the legal presumption is always on the validity of contracts. A corporation, by accepting benefits of a transaction entered into without authority, has ratified the agreement and is, therefore, bound by it. The petition was denied and the assailed decision was affirmed.

## SYLLABUS

1. **COMMERCIAL LAW; CORPORATION; BOARD OF DIRECTORS; ABSENCE OF ITS AUTHORITY, NO PERSON, NOT EVEN ITS OFFICERS CAN VALIDLY BIND A CORPORATION.**— The general rule is that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation. A corporation is a juridical person, separate and distinct from its stockholders and members, "having xxx powers, attributes and properties expressly authorized by law or incident to its existence." Being a juridical entity, a corporation may act through its board of directors, which exercises almost all corporate powers, lays down all corporate business policies and is responsible for the efficiency of management, as provided in Section 23 of the Corporation Code of the Philippines.

2. **ID.; ID.; ID.; WHEN MAY VALIDLY DELEGATE SOME OF ITS FUNCTIONS AND POWERS TO OFFICERS, COMMITTEES OR AGENTS.**— Under this provision, the power and the responsibility to decide whether the corporation should enter into a contract that will bind the corporation is lodged in the board, subject to the articles of incorporation, bylaws, or relevant provisions of law. However, just as a natural person may authorize another to do certain acts for and on his behalf, the board of directors may validly delegate some of its functions and powers to officers, committees or agents. The authority of such individuals to bind the corporation is generally derived from law, corporate bylaws or authorization from the board, either

Supreme Court E-Library



expressly or impliedly by habit, custom or acquiescence in the general course of business, *viz.*: "A corporate officer or agent may represent and bind the corporation in transactions with third persons to the extent that [the] authority to do so has been conferred upon him, and this includes powers which have been intentionally conferred, and also such powers as, in the usual course of the particular business, are incidental to, or may be implied from, the powers intentionally conferred, powers added by custom and usage, as usually pertaining to the particular officer or agent, and such apparent powers as the corporation has caused persons dealing with the officer or agent to believe that it has conferred."

3. **ID.; ID.; ID.; APPARENT AUTHORITY; DEFINED AND CONSTRUED.** — Apparent authority is derived not merely from practice. Its existence may be ascertained through (1) the general manner in which the corporation holds out an officer or agent as having the power to act or, in other words, the apparent authority to act in general, with which it clothes him; or (2) the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his ordinary powers. It requires presentation of evidence of similar act(s) executed either in its favor or in favor of other parties. It is not the quantity of similar acts which establishes apparent authority, but the vesting of a corporate officer with the power to bind the corporation. It is familiar doctrine that if a corporation knowingly permits one of its officers, or any other agent, to act within the scope of an apparent authority, it holds him out to the public as possessing the power to do those acts; and thus, the corporation will, as against anyone who has in good faith dealt with it through such agent, be estopped from denying the agent's authority.

4. **ID.; ID.; PRESIDENT; DUTIES AND FUNCTIONS; CASE AT BAR.** — Inasmuch as a corporate president is often given general supervision and control over corporate operations, the strict rule that said officer has no inherent power to act for the corporation is slowly giving way to the realization that such officer has certain limited powers in the transaction of the usual and ordinary business of the corporation. In the absence of a charter or by law provision to the contrary, the president is presumed to have the authority to act within the domain of the general objectives of its business and within the scope of

Supreme Court E-Library



his or her usual duties. Hence, it has been held in other jurisdictions that the president of a corporation possesses the power to enter into a contract for the corporation, when the "conduct on the part of both the president and the corporation [shows] that he had been in the habit of acting in similar matters on behalf of the company and that the company had authorized him so to act and had recognized, approved and ratified his former and similar actions." Furthermore, a party dealing with the president of a corporation is entitled to assume that he has the authority to enter, on behalf of the corporation, into contracts that are within the scope of the powers of said corporation and that do not violate any statute or rule on public policy.

5. **CIVIL LAW; CONTRACTS; FICTITIOUS AND SIMULATED CONTRACTS; CONSTRUED; NOT PRESENT IN CASE AT BAR.**— A fictitious and simulated agreement lacks consent which is essential to a valid and enforceable contract. A contract is simulated if the parties do not intend to be bound at all (absolutely simulated), or if the parties conceal their true agreement (relatively simulated). In the case at bar, petitioner received from private respondent a letter-offer containing the terms of the former, including a stipulation of the consideration for the latter's services. Punsalan's conformity, as well as the receipt and use of the operations manual, shows petitioner's consent to or, at the very least, ratification of the contract. To repeat, petitioner even submitted the manual to the Bureau of Customs and allowed private respondent to conduct the seminar for its employees. Private respondent heard no objection from the petitioner, until he claimed payment for the services he had rendered. Contemporaneous and subsequent acts are also principal factors in the determination of the will of the contracting parties. The circumstances outlined above do not establish any intention to simulate the contract in dispute. On the contrary, the legal presumption is always on the validity of contracts. A corporation, by accepting benefits of a transaction entered into without authority, has ratified the agreement and is, therefore, bound by it.

**APPEARANCES OF COUNSEL**

*A. A. Amador Associates* for petitioner.
*Velasco Viloria & Tria* for private respondent.

Supreme Court E-Library



## DECISION

**PANGANIBAN, *J.*:**

Contracts entered into by a corporate president without express prior board approval bind the corporation, when such officer's apparent authority is established and when these contracts are ratified by the corporation.

### *The Case*

This principle is stressed by the Court in rejecting the Petition for Review of the February 28, 1994 Decision and the October 28, 1994 Resolution of the Court of Appeals in CA-GR CV No. 30670.

In a collection case[1] filed by Stefani Saño against People's Aircargo and Warehousing Co., Inc., the Regional Trial Court (RTC) of Pasay City, Branch 110, rendered a Decision[2] dated October 26, 1990, the dispositive portion of which reads:[3]

"WHEREFORE, in light of all the foregoing, judgment is hereby rendered, ordering [petitioner] to pay [private respondent] the amount of sixty thousand (₱60,000.00) pesos representing payment of [private respondent's] services in preparing the manual of operations and in the conduct of a seminar for [petitioner]. The Counterclaim is hereby dismissed."

Aggrieved by what he considered a minuscule award of ₱60,000, private respondent appealed to the Court of Appeals[4] (CA) which, in its Decision promulgated February 28, 1994, granted his prayer for ₱400,000, as follows:[5]

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[1] Docketed as Civil Case No. 5550-P.

[2] Penned by Judge Conchita Carpio-Morales (now a justice of the Court of Appeals).

[3] RTC Decision, p. 12; *rollo*, p. 27.

[4] Seventeenth Division, composed of *JJ.* Ricardo P. Galvez (now solicitor general of the Republic), *ponente;* with the concurrence of Alfredo L. Benipayo, chairman; and Eubolo G. Verzola, member.

[5] CA Decision, p. 7; *rollo*, p. 35.

Supreme Court E-Library



"WHEREFORE, PREMISES CONSIDERED, the appealed judgment is hereby MODIFIED in that [petitioner] is ordered to pay [private respondent] the amount of four hundred thousand pesos (₱400,000.00) representing payment of [private respondent's] services in preparing the manual of operations and in the conduct of a seminar for [petitioner]."

As no new ground was raised by petitioner, reconsideration of the above-mentioned Decision was denied in the Resolution promulgated on October 28, 1994.

*The Facts*

Petitioner is a domestic corporation, which was organized in the middle of 1986 to operate a customs bonded warehouse at the old Manila International Airport in Pasay City.[6]

To obtain a license for the corporation from the Bureau of Customs, Antonio Punsalan Jr., the corporation president, solicited a proposal from private respondent for the preparation of a feasibility study.[7] Private respondent submitted a letter-proposal dated October 17, 1986 ("First Contract" hereafter) to Punsalan, which is reproduced hereunder:[8]

"Dear Mr. Punsalan:

With reference to your request for professional engineering consultancy services for your proposed MIA Warehousing Project may we offer the following outputs and the corresponding rate and terms of agreement:

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Project Feasibility Study consisting of

Market Study
Technical Study
Financial Feasibility Study

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[6] Petition, p. 2; *rollo*, p. 3.

[7] TSN, June 13, 1988, p. 4.

[8] Records, p. 38.

Supreme Court E-Library



Preparation of pertinent documentation requirements for the application

The above services will be provided for a fee of [p]esos 350,000.00 payable according to the following schedule:

| | |
|---|---|
| Fifty percent (50%) ..... | upon confirmation of the agreement |
| Twenty-five percent (25%)..... | 15 days after the confirmation of the agreement |
| Twenty-five percent (25%)..... | upon submission of the specified outputs |

The outputs will be completed and submitted within 30 days upon confirmation of the agreement and receipt by us of the first fifty percent payment.

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Thank you.

| | |
|---|---|
| Yours truly, | CONFORME: |
| (S)STEFANI C. SAÑO | (S)ANTONIO C. PUNSALAN, JR. |
| (T)STEFANI C. SAÑO | (T)ANTONIO C. PUNSALAN, JR. |
| Consultant for Industrial Engineering" | President, PAIRCARGO |

Initially, Cheng Yong, the majority stockholder of petitioner, objected to private respondent's offer, as another company priced a similar proposal at only ₱15,000.[9] However, Punsalan preferred private respondent's services because of the latter's membership in the task force, which was supervising the transition of the Bureau of Customs from the Marcos government to the Aquino administration.[10]

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[9] TSN, September 27, 1988, pp. 7-8.

[10] *Ibid.*, p. 6.

Supreme Court E-Library



On October 17, 1986, petitioner, through Punsalan, sent private respondent a letter, confirming their agreement as follows:

"Dear Mr. Saño:

With regard to the services offered by your company in your letter dated 13 October 1986, for the preparation of the necessary study and documentations to support our Application for Authority to Operate a public Customs Bonded Warehouse located at the old MIA Compound in Pasay City, please be informed that our company is willing to hire your services and will pay the amount of THREE HUNDRED FIFTY THOUSAND PESOS (₱350,000.00) as follows:

| | |
|---|---|
| ₱100,000.00 - | upon signing of the agreement; |
| 150,000.00 - | on or before October 31, 1986, with the favorable Recommendation of the CBW on our application. |
| 100,000.00 - | upon receipt of the study in final form. |

Very truly yours,

(S)ANTONIO C. PUNSALAN
(T)ANTONIO C. PUNSALAN
President

CONFORME & RECEIVED from PAIRCARGO, the amount of ONE HUNDRED THOUSAND PESOS (₱100,000.00), this 17th day of October, 1986 as 1st installment payment of the service agreement dated October 13, 1986.

(S)STEFANI C. SAÑO
(T)STEFANI C. SAÑO"

Accordingly, private respondent prepared a feasibility study for petitioner which eventually paid him the balance of the contract price, although not according to the schedule agreed upon.[11]

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[11] TSN, June 13, 1988, pp. 6 & 10.

Supreme Court E-Library



On December 4, 1986, upon Punsalan's request, private respondent sent petitioner another letter-proposal ("Second Contract" hereafter), which reads:

"People's Air Cargo & Warehousing Co., Inc.
Old MIA Compound, Metro Manila

Attention: *Mr. ANTONIO PUN[S]ALAN, JR.*
President

Dear Mr. Pun[s]alan:

This is to formalize our proposal for consultancy services to your company the scope of which is defined in the attached service description.

The total service you have decided to avail xxx would be available upon signing of the conforme below and would come [in] the amount of FOUR HUNDRED THOUSAND PESOS (₱400,000.00) payable at the schedule defined as follows (with the balance covered by post-dated cheques):

| | |
|---|---|
| Downpayment upon signing conforme | ₱ 80,000.00 |
| 15 January 1987 | 53,333.00 |
| 30 January 1987 | 53,333.00 |
| 15 February 1987 | 53,333.00 |
| 28 February 1987 | 53,333.00 |
| 15 March 1987 | 53,333.00 |
| 30 March 1987 | 53,333.00 |

With this package, you are assured of the highest service quality as our performance record shows we always deliver no less.

Thank you very much.

Yours truly,

(S)STEFANI C. SAÑO
(T)STEFANI C. SAÑO
Industrial Engineering Consultant

CONFORME:

(S)ANTONIO C. PUNSALAN JR.
(T)PAIRCARGO CO. INC."

Supreme Court E-Library



During the trial, the lower court observed that the Second Contract bore, at the lower right portion of the letter, the following notations in pencil:

"1. Operations Manual

2. Seminar/workshop for your employees

₱400,000 — package deal
50% upon completion of seminar/workshop
50% upon approval by the Commissioner

The Manual has already been approved by the Commissioner but payment has not yet been made."

The lower left corner of the letter also contained the following notations:

"1st letter — 4 Dec. 1986
2nd letter — 15 June 1987 with
*Hinanakit'*."

On January 10, 1987, Andy Villaceren, vice president of petitioner, received the operations manual prepared by private respondent.[12] Petitioner submitted said operations manual to the Bureau of Customs in connection with the former's application to operate a bonded warehouse; thereafter, in May 1987, the Bureau issued to it a license to operate, enabling it to become one of the three public customs bonded warehouses at the international airport.[13] Private respondent also conducted, in the third week of January 1987 in the warehouse of petitioner, a three-day training seminar for the latter's employees.[14]

On March 25, 1987, private respondent joined the Bureau of Customs as special assistant to then Commissioner Alex Padilla, a position he held until he became technical assistant to then Commissioner Miriam Defensor-Santiago on March 7, 1988.[15]

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[12] Records, p. 45; and TSN, June 13, 1988, p. 17.

[13] TSN, June 14, 1988, p. 26.

[14] TSN, June 13, 1988, p. 18; TSN, June 14, 1988, pp. 5-12.

[15] TSN, June 13, 1988, p. 3.

Supreme Court E-Library



Meanwhile, Punsalan sold his shares in petitioner-corporation and resigned as its president in 1987.[16]

On February 9, 1988, private respondent filed a collection suit against petitioner. He alleged that he had prepared an operations manual for petitioner, conducted a seminar-workshop for its employees and delivered to it a computer program; but that, despite demand, petitioner refused to pay him for his services.

Petitioner, in its answer, denied that private respondent had prepared an operations manual and a computer program or conducted a seminar-workshop for its employees. It further alleged that the letter-agreement was signed by Punsalan without authority, "in collusion with [private respondent] in order to unlawfully get some money from [petitioner]," and despite his knowledge that a group of employees of the company had been commissioned by the board of directors to prepare an operations manual.[17]

The trial court declared the Second Contract unenforceable or simulated. However, since private respondent had actually prepared the operations manual and conducted a training seminar for petitioner and its employees, the trial court awarded ₱60,000 to the former, on the ground that no one should be unjustly enriched at the expense of another (Article 2142, Civil Code). The trial court determined the amount "in light of the evidence presented by defendant on the usual charges made by a leading consultancy firm on similar services."[18]

*The Ruling of the Court of Appeals*

To Respondent Court, the pivotal issue of private respondent's appeal was the enforceability of the Second Contract. It noted that petitioner did not appeal the Decision of the trial court, implying that it had agreed to pay the ₱60,000 award. If the contract was valid and enforceable, then petitioner should be

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[16] TSN, September 27, 1988, pp. 5 & 21.

[17] Records, pp. 7-8.

[18] RTC Decision, p. 12; *rollo*, p. 27.

Supreme Court E-Library



held liable for the full amount stated therein, not ₱60,000 as held by the lower court.

Rejecting the finding of the trial court that the December 4, 1986 contract was simulated or unenforceable, the CA ruled in favor of its validity and enforceability. According to the Court of Appeals, the evidence on record shows that the president of petitioner-corporation had entered into the First Contract, which was similar to the Second Contract. Thus, petitioner had clothed its president with apparent authority to enter into the disputed agreement. As it had also become the practice of the petitioner-corporation to allow its president to negotiate and execute contracts necessary to secure its license as a customs bonded warehouse without prior board approval, the board itself, by its acts and through acquiescence, practically laid aside the normal requirement of prior express approval. The Second Contract was declared valid and binding on the petitioner, which was held liable to private respondent in the full amount of ₱400,000.

Disagreeing with the CA, petitioner lodged this petition before us.[19]

*The Issues*

Instead of alleging reversible errors, petitioner imputes"grave abuse of discretion" to the Court of Appeals, *viz.*:[20]

"I. xxx [I]n ruling that the subject letter-agreement for services was binding on the corporation simply because it was entered into by its president[;]

"II. xxx [I]n ruling that the subject letter-agreement for services was binding on the corporation notwithstanding the lack of any board authority since it was the purported 'practice' to allow the president to enter into contracts of said nature (citing one previous instance of a similar contract)[;] and

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[19] This case was deemed submitted for decision upon receipt by the Court of the private respondent's Memorandum on April 29, 1998.

[20] *Rollo*, p. 104.

Supreme Court E-Library



"III. xxx [I]n ruling that the subject letter-agreement for services was a valid contract and not merely simulated."

The Court will overlook the lapse of petitioner in alleging grave abuse of discretion as its ground for seeking a reversal of the assailed Decision. Although the Rules of Court specify "reversible errors" as grounds for a petition for review under Rule 45, the Court will lay aside for the nonce this procedural lapse and consider the allegations of "grave abuse" as statements of reversible errors of law.

Petitioner does not contest its liability; it merely disputes the amount of such accountability. Hence, the resolution of this petition rests on the sole issue of the enforceability and validity of the Second Contract, more specifically: (1) whether the president of the petitioner-corporation had apparent authority to bind petitioner to the Second Contract; and (2) whether the said contract was valid and not merely simulated.

*The Court's Ruling*

The petition is not meritorious.

*First Issue*:
*Apparent Authority of a Corporate President*

Petitioner argues that the disputed contract is unenforceable, because Punsalan, its president, was not authorized by its board of directors to enter into said contract.

The general rule is that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation.[21] A corporation is a juridical person, separate and distinct from its stockholders and members, "having xxx powers, attributes and properties expressly authorized by law or incident to its existence."[22]

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[21] *Premium Marble Resources, Inc. v. Court of Appeals*, 264 SCRA 11, 17, November 4, 1996.

[22] Section 2, Corporation Code.

Supreme Court E-Library



Being a juridical entity, a corporation may act through its board of directors, which exercises almost all corporate powers, lays down all corporate business policies and is responsible for the efficiency of management,[23] as provided in Section 23 of the 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."

Under this provision, the power and the responsibility to decide whether the corporation should enter into a contract that will bind the corporation is lodged in the board, subject to the articles of incorporation, bylaws, or relevant provisions of law.[24] However, just as a natural person may authorize another to do certain acts for and on his behalf, the board of directors may validly delegate some of its functions and powers to officers, committees or agents. The authority of such individuals to bind the corporation is generally derived from law, corporate bylaws or authorization from the board, either expressly or impliedly by habit, custom or acquiescence in the general course of business, *viz.*:[25]

"A corporate officer or agent may represent and bind the corporation in transactions with third persons to the extent that [the] authority to do so has been conferred upon him, and this includes powers which have been intentionally conferred, and also such powers as, in the usual course of the particular business, are incidental to, or may be implied from, the powers intentionally conferred, powers added by custom and usage, as usually pertaining to the particular officer or agent, and such apparent powers as the corporation has caused persons dealing with the officer or agent to believe that it has conferred."

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[23] Campos, *The Corporation Code: Comments, Notes and Selected Cases,* Vol. 1, 1990 ed., p. 340.

[24] *Yao Ka Sin Trading v. Court of Appeals*, 209 SCRA 763, 781, June 15, 1992; citing 19 CJS 455.

[25] *Ibid.*, pp. 781-782; citing 19 CJS 456, per Davide, Jr., *J.*

Supreme Court E-Library



Accordingly, the appellate court ruled in this case that the authority to act for and to bind a corporation may be presumed from acts of recognition in other instances, wherein the power was in fact exercised without any objection from its board or shareholders. Petitioner had previously allowed its president to enter into the First Contract with private respondent without a board resolution expressly authorizing him; thus, it had clothed its president with apparent authority to execute the subject contract.

Petitioner rebuts, arguing that a single isolated agreement prior to the subject contract does not constitute corporate *practice*, which Webster defines as "frequent or customary action." It cites *Board of Liquidators v. Kalaw,*[26] in which the practice of NACOCO allowing its general manager to negotiate and execute contract in its copra trading activities for and on its behalf, without prior board approval, was inferred from sixty contracts — not one, as in the present case — previously entered into by the corporation without such board resolution.

Petitioner's argument is not persuasive. Apparent authority is derived not merely from practice. Its existence may be ascertained through (1) the general manner in which the corporation holds out an officer or agent as having the power to act or, in other words, the apparent authority to act in general, with which it clothes him; or (2) the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his ordinary powers.[27] It requires presentation of evidence of similar act(s) executed either in its favor or in favor of other parties.[28] It is not the quantity of similar acts which establishes apparent authority, but the vesting of a corporate officer with the power to bind the corporation.

In the case at bar, petitioner, through its president Antonio Punsalan Jr., entered into the First Contract without first securing

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[26] 20 SCRA 987, 1005, August 14, 1967, per Sanchez, *J.*

[27] *Yao Ka Sin Trading v. Court of Appeals, supra*, p. 783.

[28] *Ibid.*, p. 784.

Supreme Court E-Library



board approval. Despite such lack of board approval, petitioner did not object to or repudiate said contract, thus "clothing" its president with the power to bind the corporation. The grant of apparent authority to Punsalan is evident in the testimony of Yong — senior vice president, treasurer and major stockholder of petitioner. Testifying on the First Contract, he said:[29]

"A: Mr. [Punsalan] told me that he prefer[s] Mr. Saño because Mr. Saño is very influential with the Collector of Customs[s]. Because the Collector of Custom[s] will be the one to approve our project study and I objected to that, sir. And I said it [was an exorbitant] price. And Mr. Punsalan he is the [p]resident, so he [gets] his way.

Q: And so did the company eventually pay this ₱350,000.00 to Mr. Saño?

A: Yes, sir."

The First Contract was consummated, implemented and paid without a hitch.

Hence, private respondent should not be faulted for believing that Punsalan's conformity to the contract in dispute was also binding on petitioner. It is familiar doctrine that if a corporation knowingly permits one of its officers, or any other agent, to act within the scope of an apparent authority, it holds him out to the public as possessing the power to do those acts; and thus, the corporation will, as against anyone who has in good faith dealt with it through such agent, be estopped from denying the agent's authority.[30]

Furthermore, private respondent prepared an operations manual and conducted a seminar for the employees of petitioner in accordance with their contract. Petitioner accepted the operations manual, submitted it to the Bureau of Customs and

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[29] TSN, September 27, 1988, p. 8.

[30] *Francisco v. Government Service Insurance System*, 7 SCRA 577, 583, March 30, 1963; *Maharlika Publishing Corporation v. Tagle*, 142 SCRA 553, 566, July 9, 1986.

Supreme Court E-Library



allowed the seminar for its employees. As a result of its aforementioned actions, petitioner was given by the Bureau of Customs a license to operate a bonded warehouse. Granting *arguendo* then that the Second Contract was outside the usual powers of the president, petitioner's ratification of said contract and acceptance of benefits have made it binding, nonetheless. The enforceability of contracts under Article 1403(2) is ratified "by the acceptance of benefits under them" under Article 1405.

Inasmuch as a corporate president is often given general supervision and control over corporate operations, the strict rule that said officer has no inherent power to act for the corporation is slowly giving way to the realization that such officer has certain limited powers in the transaction of the usual and ordinary business of the corporation.[31] In the absence of a charter or bylaw provision to the contrary, the president is presumed to have the authority to act within the domain of the general objectives of its business and within the scope of his or her usual duties.[32]

Hence, it has been held in other jurisdictions that the president of a corporation possesses the power to enter into a contract for the corporation, when the "conduct on the part of both the president and the corporation [shows] that he had been in the habit of acting in similar matters on behalf of the company and that the company had authorized him so to act and had recognized, approved and ratified his former and similar actions."[33]

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[31] *Western American Life Ins. Co. v. Hicks,* 217 SE 2d 323, 324, May 19, 1975; and *Cooper v. G.E. Construction Co.,* 158 SE 2d 305, 308, October 30, 1967.

[32] 19 AmJur 2d 595; citing *Pegram-West, Inc. v. Winston Mut. Life Ins. Co.,* 56 SE 2d 607, 612, December 14, 1949; *Cushman v. Cloverland Coal & Mining Co.,* 84 NE 759, 760, May 15, 1908; *Ceedeer v. H. M. Loud & Sons' Lumber Co.,* 49 NW 575, 575, July 28, 1891, *Memorial Hospital Asso. v. Pacific Grape,* 50 ALR 2d 442, 445, November 29, 1955; *Lloyd & Co. v. Matthews & Rice,* 79 NE 172, 173, December 5, 1906, and *National State Bank v. Vigo County National Bank,* 40 NE 799, 800, May 28, 1895.

[33] *Greenspan's Sons Iron & Steel Co. v. Pecos Valley Gas Co.,* 156 A 350, 352-353, June 1, 1931.

Supreme Court E-Library



Furthermore, a party dealing with the president of a corporation is entitled to assume that he has the authority to enter, on behalf of the corporation, into contracts that are within the scope of the powers of said corporation and that do not violate any statute or rule on public policy.[34]

*Second Issue*:
*Alleged Simulation of the First Contract*

As an alternative position, petitioner seeks to pare down its liabilities by limiting its exposure from ₱400,000 to only ₱60,000, the amount awarded by the RTC. Petitioner capitalizes on the "badges of fraud" cited by the trial court in declaring said contract either simulated or unenforceable, *viz.*:

"xxx The October 1986 transaction with [private respondent] involved ₱350,000. The same was embodied in a letter which bore therein not only the conformity of [petitioner's] then President Punsalan but also drew a letter-confirmation from the latter for, indeed, he was clothed with authority to enter into the contract after the same was brought to the attention and consideration of [petitioner]. Not only that, a [down payment] was made. In the alleged agreement of December 4, 1986 subject of the present case, the amount is even bigger-₱400,000.00. Yet, the alleged letter-agreement drew no letter of confirmation. And no [down payment] and postdated checks were given. Until the filing of the present case in February 1988, no written demand for payment was sent to [petitioner]. [Private respondent's] claim that he sent one in writing, and one was sent by his counsel who manifested that '[h]e was looking for a copy in [his] files' fails in light of his failure to present any such copy. These and the following considerations, to wit:

1) Despite the fact that no [down payment] and/or postdated checks [partial payments] (as purportedly stipulated in the alleged contract) [was given, private respondent] went ahead with the services[;]

2) [There was a delay in the filing of the present suit, more than a year after [private respondent] allegedly completed his services

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[34] *Vulcan Corporation v. Cobden Machine Works*, 84 NE 2d 173, 176, January 17, 1949.

Supreme Court E-Library



or eight months after the alleged last verbal demand for payment made on Punsalan in June 1987;

3) Does not Punsalan's writing allegedly in June 1987 on the alleged letter-agreement of 'your employees[,]' when it should have been 'our employees,' as he was then still connected with [petitioner], indicate that the letter-agreement was signed by Punsalan when he was no longer connected with [petitioner] or, as claimed by [petitioner], that Punsalan signed it without [petitioner's] authority and must have been done 'in collusion with plaintiff in order to unlawfully get some money from [petitioner]?

4) If, as [private respondent] claims, the letter was returned by Punsalan after affixing thereon his conformity, how come xxx when Punsalan allegedly visited [private respondent] in his office at the Bureau of Customs, in June 1987, Punsalan 'brought' (again?) the letter (with the pencil [notation] at the left bottom portion allegedly already written)?

5) How come xxx [private respondent] did not even keep a copy of the alleged service contract allegedly attached to the letter-agreement?

6) Was not the letter-agreement a mere draft, it bearing the corrections made by Punsalan of his name (the letter 'n' is inserted before the last letter 'o' in Antonio) and of the spelling of his family name (Punsalan, not Punzalan)?

7. Why was not Punsalan impleaded in the case?"

The issue of whether the contract is simulated or real is factual in nature, and the Court eschews factual examination in a petition for review under Rule 45 of the Rules of Court.[35] This rule, however, admits of exceptions, one of which is a conflict between the factual findings of the lower and of the appellate courts[36] as in the case at bar.

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[35] *Engineering & Machinery Corporation v. Court of Appeals,* 252 SCRA 156, 162, January 24, 1996; *Catapusan v. Court of Appeals,* 264 SCRA 534, 539, November 21, 1996; *First Philippine International Bank v. Court of Appeals,* 252 SCRA 259, January 24, 1996; and *Inland Trailways, Inc. v. Court of Appeals,* 255 SCRA 178, 182, March 18, 1996.

[36] *Quebral v. Court of Appeals,* 252 SCRA 353, 364, January 25, 1996; *Republic v. Court of Appeals,* 258 SCRA 223, 242, July 5, 1996; *Cuizon*

Supreme Court E-Library



After judicious deliberation, the Court agrees with the appellate court that the alleged "badges of fraud" mentioned earlier have not affected in any manner the perfection of the Second Contract or proved the alleged simulation thereof. *First,* the lack of payment (whether down, partial or full payment), even after completion of private respondent's obligations, imports only a defect in the performance of the contract on the part of petitioner. *Second,* the delay in the filing of action was not fatal to private respondent's cause. Despite the lapse of one year after private respondent completed his services or eight months after the alleged last demand for payment in June 1987, the action was still filed within the allowable period, considering that an action based on a written contract prescribes only after ten years from the time the right of action accrues.[37] *Third,* a misspelling in the contract does not establish vitiation of consent, cause or object of the contract. *Fourth,* a confirmation letter is not an essential element of a contract; neither is it necessary to perfect one. *Fifth,* private respondent's failure to implead the corporate president does not establish collusion between them. Petitioner could have easily filed a third-party claim against Punsalan if it believed that it had recourse against the latter. *Lastly*, the mere fact that the contract price was six times the alleged going rate does not invalidate it.[38] In short, these "badges" do not establish simulation of said contract.

A fictitious and simulated agreement lacks consent which is essential to a valid and enforceable contract.[39] A contract is simulated if the parties do not intend to be bound at all (absolutely simulated),[40] or if the parties conceal their true agreement

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*v. Court of Appeals,* 260 SCRA 645, August 22, 1996; and *Lustan v. Court of Appeals,* 266 SCRA 663, 670, January 27, 1997.

[37] Article 1144(1), Civil Code.

[38] "ARTICLE 1355. Except in cases specified by law, lesion or inadequacy of cause shall not invalidate a contract, unless there has been fraud, mistake or undue influence."

[39] *Cuizon v. CA, supra,* p. 665.

[40] Article 1345, Civil Code; *Heirs of Placido Miranda v. Court of Appeals,* 255 SCRA 368, 375, March 29, 1996.

Supreme Court E-Library



(relatively simulated).[41] In the case at bar, petitioner received from private respondent a letter-offer containing the terms of the former, including a stipulation of the consideration for the latter's services. Punsalan's conformity, as well as the receipt and use of the operations manual, shows petitioner's consent to or, at the very least, ratification of the contract. To repeat, petitioner even submitted the manual to the Bureau of Customs and allowed private respondent to conduct the seminar for its employees. Private respondent heard no objection from the petitioner, until he claimed payment for the services he had rendered.

Contemporaneous and subsequent acts are also principal factors in the determination of the will of the contracting parties.[42] The circumstances outlined above do not establish any intention to simulate the contract in dispute. On the contrary, the legal presumption is always on the validity of contracts. A corporation, by accepting benefits of a transaction entered into without authority, has ratified the agreement and is, therefore, bound by it.[43]

**WHEREFORE**, the petition is hereby *DENIED* and the assailed Decision *AFFIRMED.* Costs against petitioner.

**SO ORDERED.**

*Davide, Jr.* (*Chairman*), *Bellosillo, Vitug,* and *Quisumbing, JJ.,* concur.

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[41] Article 1345, Civil Code; *Pangadil v. Court of First Instance,* 116 SCRA 347, 354, August 31, 1982.

[42] Article 1371, Civil Code; *Rapanut v. Court of Appeals,* 243 SCRA 323, 326, July 14, 1995; and *Cuizon v. CA, supra,* p. 662.

[43] *Snyder v. Freeman,* 266 SE 2d 593, 599-600, June 3, 1980; *Terminal Freezers, Inc. v. Roberts Frozen Foods,* 354 NE 2d 904, 909, October 12, 1976.