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AGENCY

*Milton M. Harrison**

Two cases provided the opportunity for the court to reiterate the well-established doctrine that failure of a principal to repudiate immediately an unauthorized agreement by an agent when notified of such agreement amounts to ratification of the agreement by the principal.

In *Galliotto v. Trapani*,¹ a real estate broker² transferred to the prospective vendor a portion of the deposit made to him at the time of the execution of an agreement to sell a business establishment. Although there was no evidence of specific authority to make such a transfer, it was made in the presence of the vendee without any protest or repudiation and the vendee took possession of the premises. The sale was not consummated because of foreclosure by creditors of the owner. The court held that the principal (vendee) had ratified the agent's act in transferring a portion of the deposit and could therefore recover only the remainder.

In *Bellestri v. Clark*,³ the court said it was of no import whether one held out to be an agent acted with actual authority where he acted in the presence of the purported principal who expressed no disagreement.

The court in neither case referred to Civil Code Article 3021, but it is clear that ratification may result from silence and inaction as well as be expressed in positive terms.

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The case of *Crown Central Petroleum Corp. v. Barousse*¹ was a concursus proceeding instituted to obtain a determination of

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1. 238 La. 625, 116 So.2d 273 (1959).

2. The court also cited with approval Succession of Gilmore, 154 La. 105, 97 So. 330 (1923), and the interpretation of Civil Code Articles 3016 and 3017, to the effect that a real estate broker, whose purpose is to bring together vendor and vendee, is the agent of both parties, owing equal fidelity to each.

3. 239 La. 713, 119 So.2d 836 (1960).

*Grateful acknowledgment is hereby registered to my student and friend Jack P. Brook for his work in the preparation of these materials.

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1. 238 La. 1013, 117 So.2d 575 (1960).