

**\*\*Title:\*\*** Erlinda R. Velayo-Fong vs. Spouses Raymond and Maria Hedy Velayo

**\*\*Facts:\*\***

The case involves a complaint filed by the spouses Raymond and Maria Hedy Velayo (respondents) against Erlinda R. Velayo-Fong (petitioner), Rodolfo R. Velayo, Jr., and Roberto R. Velayo. The respondents allege that the petitioner and her co-defendants falsely accused Raymond of estafa and kidnapping before the National Bureau of Investigation (NBI), requested that respondents be placed on the Bureau of Immigration and Deportation's Hold Departure List, and filed a petition before the Securities and Exchange Commission (SEC) to freeze respondents' assets. These actions paralyzed respondents' business operations and caused financial loss.

The respondents filed their complaint on August 9, 1993. Since the petitioner was a non-resident, the respondents sought a writ of preliminary attachment against her properties in the Philippines. The summons addressed to the petitioner was initially ordered to be served at specified addresses in Pasay City and Makati. However, service was finally completed personally on September 23, 1993, at the lobby of the Intercontinental Hotel, Makati. The petitioner and her co-defendants were declared in default for failing to file an answer.

The Regional Trial Court (RTC) rendered a default judgment on June 15, 1994, awarding damages to the respondents. On September 1, 1994, the petitioner filed a motion to set aside the default order, arguing she was not properly served with summons and had valid defenses. The RTC denied this motion on May 29, 1995. The petitioner then appealed to the Court of Appeals (CA), which affirmed the RTC's decision. The petitioner's motion for reconsideration was also denied by the CA. This led to the petitioner's appeal to the Supreme Court.

**\*\*Issues:\*\***

1. **\*\*Jurisdiction of the Court of Appeals:\*\*** Whether the CA had jurisdiction to decide on the propriety and validity of the service of summons upon the petitioner, a non-resident.
2. **\*\*Validity of Service of Summons:\*\*** Whether the petitioner was validly served with summons, considering she was a non-resident.
3. **\*\*Order of Default:\*\*** Whether the RTC should have set aside the order of default due to fraud, accident, or mistake.
4. **\*\*Application of Rules:\*\*** Whether there was a need for a liberal interpretation of procedural rules to give the petitioner her day in court.

**Court's Decision:**

1. **Jurisdiction of the Court of Appeals:** The Supreme Court held that the CA had jurisdiction as the petitioner's appeal raised mixed questions of law and fact. Specifically, it involved reviewing if service of summons was properly executed, a factual issue.
2. **Validity of Service of Summons:** The Supreme Court affirmed the CA and RTC's finding of valid personal service of summons. It held that for an in personam action, personal service within the jurisdiction is required to acquire jurisdiction over the person. The petitioner was physically present and personally served in the Philippines.
3. **Order of Default:** The Supreme Court upheld the CA and RTC's decision not to set aside the default order. It found no compelling proof that service of summons was not properly effected. The petitioner's allegation of papers being thrown at her was insufficient to counter the presumption of regularity.
4. **Application of Rules:** The Court ruled that the petitioner failed to demonstrate her failure to respond was due to fraud, accident, mistake, or excusable neglect. Additionally, the Court found that the petitioner did not provide a valid and meritorious defense that might warrant a different result if a new trial were granted.

**Doctrine:**

1. **Personal Service for In Personam Actions:** For in personam actions, valid personal service of summons within the jurisdiction is necessary to acquire jurisdiction over a defendant, even if they are a non-resident.
2. **Presumption of Regularity:** Official acts, such as service of summons by court officers, enjoy the presumption of regularity, and compelling evidence is required to counter this presumption.
3. **Lifting Default Orders:** A party seeking to lift a default order must prove that their failure to respond was due to fraud, accident, mistake, or excusable neglect and must show a valid and meritorious defense.

**Class Notes:**

- Key elements of in personam actions and the requirement of personal service of summons:
- Section 17, Rule 14 of the Rules of Court - Discusses the conditions for extraterritorial service of summons, which is not applicable where the defendant is physically present within the jurisdiction.
- Presumption of Regularity: As per Section 3(m), Rule 131 of the Revised Rules on

Evidence.

- Appeal processes and questions of law vs. questions of fact (Murillo v. Consul and the 1997 Rules of Civil Procedure).

**\*\*Historical Background:\*\***

This case exemplifies procedural rigor in the Philippine judicial process, particularly concerning service of summons on non-residents and the conditions under which default judgments may be contested. It highlights the protective measures in place for defendants to ensure they are given the chance to respond to complaints properly, alongside the judiciary's commitment to upholding procedural regularity and certainty.