

**LEONCIO SY Y. ANG, PETITIONER, VS. HON. RICARDO Y. NAVARRO,
JUDGE OF THE COURT OF FIRST INSTANCE OF ILOCOS NORTE;
SHERIFF OF MANILA, AND SEVERINO RUARO, RESPONDENTS.**

G.R. No. L-44909. January 31, 1978

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/03ae80453bf4/>

AQUINO, J.:

On July 1, 1973 the Volkswagen car of Severino R. Ruaro was bumped by an Opel car driven by Leoncio Sy on Andalucia Street, Manila. Sy was charged in the city court of Manila with damage to property through reckless imprudence. He was convicted and sentenced to pay a fine of P2,055.70 and to pay Ruaro the same amount as indemnity.

Sy appealed directly to the Court of Appeals. That Court in its decision of June 11, 1976 acquitted Sy (People vs. Sy, CA-G.R. No. 18574-Cr.).

The Court of Appeals found that on June 30, 1973 Ruaro's car was involved with a Ford Fairlane sedan in a vehicular accident at the Andalucia Subway, corner of Lerma Street, Manila. As a result, the left fender of the Volkswagen car pressed its left tire. Since the car could not be moved and towage service was not available, Ruaro left the car at the scene of the accident.

The following day, July 1, Ruaro discovered that his car had been bumped by Sy's Opel Rekord car which was also at the Andalucia Subway. It turned out that on that day while Sy was driving his Opel car he stopped it on the Andalucia Subway when he noticed the Volkswagen car. When the Opel car stopped, the jeep of Luis Namba, which was behind, bumped it and caused it to bump in turn the Volkswagen car.

The Court of Appeals held that under those circumstances no criminal negligence could be imputed to Sy.

In the criminal case, Ruaro had expressly reserved the right to file a separate civil action for damages. On August 19, 1974 he sued Sy for damages in the Court of First Instance of Ilocos Norte (Civil Case No. 5095-I). The summons could not be personally served upon Sy.

A deputy sheriff of Manila was designated to serve the second alias summons. On October 10, 1975 the sheriff allegedly left the summons and a copy of the complaint with a certain "Mr. Sy", the supposed manager of the Goodyear Hardware located at 2443 Rizal Avenue, Manila, where defendant Leoncio Sy was reportedly working. "Mr. Sy", the manager, allegedly refused to sign for the receipt of the summons.

On the basis of that alleged service, the trial court, upon Ruaro's motion, declared Sy in default in its order of November 24, 1975. A copy of that order was not served upon Sy.

Ruaro presented his evidence ex parte. The trial court in its decision of February 11, 1976 ordered Sy to pay Ruaro P2,335.70 as actual damages, P10,000 as moral damages and P2,000 as attorney's fees.

A copy of the decision was received by Sy by registered mail on March 3, 1976 at his address, 2443 Rizal

Avenue, Manila.

Within the thirty-day reglementary period, Sy filed a verified motion dated March 15, 1976 to set aside the order of default and to vacate the judgment. The motion was accompanied by his affidavit stating that he was never served with summons.

He alleged in his motion that no jurisdiction was acquired over his person because he was not served with summons. He griped that he was not given his day in court and he averred that he had a good defense because his car was bumped by the jeep of Luis Namba, thus causing his car to collide with Ruaro's Volkswagen.

Ruaro opposed the motion. The trial court denied it in its order of May 15, 1976. Sy filed a motion for reconsideration. Attached to that motion was the affidavit of William Cho, a sales clerk at the Goodyear Hardware.

Cho affirmed that on October 10, 1975 a deputy sheriff failed to serve the summons on Sy because Sy was then in Nueva Ecija. Cho also stated that the sheriff did not leave with Cho the summons and a copy of the complaint.

Sy also attached to his motion a copy of the entry of judgment made in the Court of Appeals by virtue of the final decision acquitting him of criminal negligence.

The trial court denied Sy's second motion for reconsideration on the ground that it was filed out of time and that its judgment had already become final.

On October 29, 1976 Sy filed in this Court the instant petition for certiorari. He assailed the lower court's judgment for damages on the grounds of lack of jurisdiction and lack of due process. The issue is whether the proceedings in the lower court should be set aside.

"Summons is a writ by which the defendant is notified of the action brought against him. Service of such writ is the means by which the court may acquire jurisdiction over his person. Trial and judgment without such service are null and void" (1 Moran's Comments on the Rules of Court, 1970 Ed., p. 438; *Dultra vs. Court of First Instance of Agusan*, L-27682, April 30, 1976, 70 SCRA 465, 469).

Substituted service of summons, in lieu of personal service, "may be effected (a) by leaving copies of the summons at the defendant's dwelling house or residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof" (Sec. 8, Rule 14, Rules of Court).

The deputy sheriff certified in his return that he served the alias summons at defendant Sy's place of business by leaving the summons and a copy of the complaint with one "Mr. Sy, Manager of the Goodyear Hardware", "a person with sufficient age and discretion who is authorized to receive such process, but he refused to sign" (back of page 53, Rollo). Obviously, the "Mr. Sy" referred to in the sheriff's return is not defendant Sy, now the petitioner herein.

But that certification of the sheriff was directly controverted under oath by petitioner Sy and by William Cho, a sales clerk of the Goodyear Hardware. Cho admitted that the sheriff appeared at the hardware store on October 10, 1975 but Cho denied that the sheriff delivered to Cho the summons and a copy of the complaint.

In view of that controversion, there is no certitude under the facts and circumstances of this case as to whether the sheriff complied with the requirements for substituted service of summons as prescribed in section 8. It cannot be asseverated as an indisputable fact that a competent person at Sy's place of business received the summons in his behalf. The unavoidable conclusion is that the lower court did not acquire jurisdiction over Sy's person.

Moreover, we cannot disregard the fact that the civil case was predicated on Sy's criminal liability and that the Court of Appeals in a final judgment (rendered after the trial court had decided the civil case) found that no such liability can be fastened upon Sy.

Nor can we close our eyes to the possibility that an injustice might be committed, and an anomaly would remain uncorrected, should the executory judgment in the civil case be enforced notwithstanding that Sy was not heard at all in that case and that the said judgment is at war with the judgment of acquittal rendered by the Court of Appeals.

To tolerate that judgment in the face of Sy's protestation that he was not given his day in court would set at naught the principle of fundamental fairness which is the essence of due process.

This is a case where we may apply the rule that when facts and circumstances transpire which render the execution of a final judgment impossible or inequitable and unjust, or which change the rights of the parties, its execution may be stayed and the proper court may admit evidence of such facts and circumstances and grant relief as may be warranted (*City of Cebu vs. Mendoza*, L-26321, August 19, 1975, 66 SCRA 174, 177).

To do justice herein, it is imperative that the case be heard anew by the trial court in the light of the supervening fact that Sy was acquitted of the charge of criminal negligence, which crime is the basis of the award of damages or civil liability in the civil case. (See sec. 3[c], Rule 111, Rules of Court).

WHEREFORE, the lower court's order of default and the judgment by default are set aside. The trial court is directed to admit Sy's answer to the complaint, which should be filed within ten (10) days after notice of the entry of judgment in this case, and to conduct further proceedings for its adjudication. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

Santos, J., on leave.

Fernando, J., I concur. While the procedural points raised by respondent Ruaro seem to be quite impressive, the interests of substantial justice might be better served by a new trial where Sy can prove his defenses and/or make a third-party claim against Namba.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.