

**CLAVECILLA RADIO SYSTEM, PETITIONER AND APPELLANT, VS.
HON. AGTJSTIN ANTILLON, AS CITY JUDGE OF THE MUNICIPAL
COURT OF CAGAYAN DE ORO CITY AND NEW CAGAYAN GROCERY,
RESPONDENTS A...**

G.R. No. L-22238. February 18, 1967

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from an order of the Court of First instance of Misamis Oriental dismissing the petition of the Clavecilla Radio System to prohibit the City Judge of Cagayan de Oro from taking cognizance of Civil Case No. 1048 for damages.

It appears that on June 22, 1963, the New Cagayan Grocery filed a complaint against the Clavecilla Radio System, alleging, in effect, that on March 12, 1963, the following message, addressed to the former, was filed at the latter's Bacolod Branch Office for transmittal thru its branch office at Cagayan de Oro:

"NECAGRO

CAGAYANDEORO (CLAVECILLA) REUETEL WASHED NOT AVAILABLE KEFINED TWENTY
FL?TY IF AGREEABLE SHALL SHIP LATER REPLY

POHANG"

The Cagayan de Oro branch office having received the said message omitted, in delivering the same to the New Cagayan Grocery, the word "NOT" between the words "WASHED" and "AVAILABLE," thus changing entirely the contents and purport of the same and causing the said addressee to suffer damages. After service of summons, the Clavecilla Radio System filed a motion to dismiss the complaint on the grounds that it states no cause of action and that the venue is improperly laid. The New Cagayan Grocery interposed an opposition to which the Clavecilla Radio System filed its rejoinder. Thereafter the City Judge, on September 18, 1963, denied the motion to dismiss for lack of merit and set the case for hearing.

Hence, the Clavecilla Radio System filed a petititon for prohibition with preliminary injunction with the Court of First Instance praying that the City Judge, Honorable Agustin Antillon, be enjoined from further proceeding with the case on the ground of improper venue. The respondents filed a motion to dismiss the petition but this was opposed by the petitioner. Later, the motion was submitted for resolution on the pleadings.

In dismissing the case, the lower court held that the Clavecilla Radio System may be sued either in Manila where it has its principal office or in Cagayan de Oro City where it may be served, as in fact it was served, with summons through the Manager of its branch office in said city. In other words, the court upheld the authority of the city court to take cognizance of the case.

In appealing, the Clavecilla Radio System contends that the suit against it should be filed in Manila where it holds

its principal office.

It is clear that the case for damages filed with the city court is based upon tort and not upon a written contract. Section 1 of Rule 4 of the New Rules of Court, governing venue of action in inferior courts provides in its paragraph (b) (3) that when "the action is not upon a written contract, then in the municipality where the defendant or any of the defendants resides or may be served with summons." (*Italics supplied*)

Settled is the principle in corporation law that the residence of a corporation is the place where its principal office is established. Since it is not disputed that the Clavecilla Radio system has its principal office in Manila, it follows that the suit against it may properly be filed in the City of Manila.

The appellees maintain, however, that with the filing of the the action in Cagayan de Oro City, venue was properly laid on the principle that the appellant may also be served with summons in that city where it maintains a branch office. This Court has already held in the case of *Cohen vs. Benguet Commercial Co., Ltd.*, 34 Phil. 526, that the term "may be served with summons" does not apply when the defendant resides in the Philippines for, in such case, he may be sued only in the municipality of his residence, regardless of the place where he may be found and served with summons. As any other corporation, the Clavecilla

Radio System maintains a residence which is Manila in this case, and a person can have only one residence at a time (See *Alcantara, et al. vs. Evangelista*, 86 Phil. 387). The fact that it maintains branch offices in some parts of the country does not mean that it can be sued in any of these places. To allow an action to be instituted in any place where a corporate entity has its branch offices would create confusion and work untold inconvenience to the corporation.

It is important to remember, as was stated by this 'Court in *Evangelista vs. Santos et al*, *supra*, that the laying of the venue of an action is not left to plaintiff's caprice because the matter is regulated by the Rules of Court. Applying the provision of the Rules of Court, the venue in this case was improperly laid.

The order appealed from is therefore reversed, but without prejudice to the filing of the action in which the venue shall be laid properly. With costs against the respondents-appellees.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Order reversed.

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