

**SAN DIONISIO TRANSPORT SERVICES COOPERATIVE, INC.,
PETITIONER, VS. HON. PEDRO DE LEON GUTIERREZ AND EDITHA
BERNADETTE GAMULO- AMOLO (REPRESENTED BY HER MOTHER
PROMULGATED: FELY ...**

Ponente: CRUZ, J.

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CRUZ, J.:

Before the Regional Trial Court of Pasay City (Branch 119), presided over by Hon. Pedro de Leon Gutierrez (or “respondent judge”), was an action for damages filed by Editha Bernadette Gamulo-Amolo (or “private respondent”) on August 7, 1998 against Eduardo I. Lomuntad (or “Lomuntad”), Julius A. Jereza (or “Jereza”), Gold Line Tours, Inc. (or “Gold Line”) and San Dionisio Transport Services Cooperative, Inc. (or “petitioner”).

The action stemmed from a vehicular accident which occurred on January 4, 1993 whereby a passenger jeepney, with license plate no. NVT-651 and then being driven by Jereza, and a bus, with license plate no. NXS-941 and then being driven by Lomuntad, figured in a collision which resulted in the death of private respondent’s husband, Benedicto Amolo, Jr., a passenger of the jeepney.

The action was predicated on breach of contract of carriage in respect to petitioner, as owner of the jeepney, and on quasi delict as against Jereza, Lomuntad and Gold Line, the first two as drivers of the jeepney and bus, respectively, and the third as owner of the bus.

Admittedly, Jereza, Lomuntad and Gold Line were not served with summons. On the other hand, summons, together with copy of the complaint, was purportedly served on petitioner thru a certain Vangie Luza (or “Luza”) on August 7, 1998.

As no answer was filed by petitioner, it was declared in default and private respondent was allowed to present her evidence ex-parte (order dated January 5, 1999).

On November 6, 2000, the lower court rendered a decision disposing, as follows:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant San Dionisio Transport (Services) Cooperative, Inc., ordering the latter:

1. to pay the amount of P50,000.00 as moral damages;
2. to pay the sum of P45,610.00 as actual damages; and
3. to pay the amount of P10,000.00 as and for attorney’s fees; and
4. the cost of this suit.

SO ORDERED.”

On October 25, 2001, petitioner filed a petition for relief from judgment (accompanied by an affidavit of merit) anchored on the averments that Luza had no authority to receive the summons in its behalf as she was not its director, officer or employee nor in any way connected with it.

However, the petition was denied by respondent judge per order dated February 25, 2003. Its motion for reconsideration having met the same fate pursuant to the order dated February 3, 2004, petitioner came to this Court by way of certiorari, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on respondent judge in issuing the aforesaid orders.

Petitioner asserts that being a domestic corporation, it should have been served with summons thru either its president, managing partner, general manager, corporate secretary, treasurer or in-house counsel, pursuant to Sec. 11, Rule 14 of the 1997 Rules of Civil Procedure; that Luza was not an officer authorized to receive summons in its behalf; and that the service of summons thru Luza being invalid, the trial court did not acquire jurisdiction over its person.

On the other hand, private respondent maintains that the instant petition does not state that there is no appeal or any plain, speedy and adequate remedy available to petitioner nor expressly assail Luza's authority to receive the summons in its behalf; that no evidence was presented by petitioner to prove improper service of summons; and that petitioner implicitly admitted the service of summons as it did not state in its petition for relief from judgment (although alleged in its subsequent motion for reconsideration) that the service of summons was not made at its office.

The petition is meritorious.

In sustaining the validity of the service of summons on petitioner, the trial court ratiocinated, thus:

“It has to be noted that the defendant-cooperative did not deny that it has its office or business address at Suite 1102 Victoria Bldg., No. 429 United Nations Ave., Ermita, Manila. In fact, all mail matters of this Court addressed to the defendant-cooperative were returned to this Court with notation ‘unclaimed’ after three notices were sent to it by postal authorities. Therefore, it gives the impression that the defendant-cooperative was holding office and/or business at the said address at the time of the service of summons upon it and as attested to by Sheriff Navalta, Ms. Luza, who represented herself as the ‘secretary’ of the defendant-cooperative, was at that office on August 5, 1998 and, in fact, affixed her signature on the summons. There being no showing that Sheriff Navalta have been remiss of his duty or have served the summons with the defendant-cooperative with undue haste, the bare denial of the defendant-cooperative that said Ms. Luza is not or never been employed by it can not be given due credence.

As the defendant-cooperative now poses – is the service of summons to said Ms. Luza – be considered a valid service of summons upon the defendant-cooperative?

While it may be true that Section 13, Rule 14 of the Revised Rules of Civil Procedures (sic) enumerated the officers or employees of a domestic corporation to whom service of summons maybe made, the Supreme Court – in the case of *G & G Trading Corp. vs. Court Of Appeals, et al.*, [G.R. No. 78299, February 29, 1988, very well stressed the propriety of service of summons to a clerical secretary of a corporation, as follows:

‘x x x

In the case at bar, the lower court concluded that there was valid service of summons on petitioner corporation as Melinda C. Molo, who received the summons, was the secretary of the corporation. The basis of such finding was the lower court's belief that Melinda identified herself as the secretary of the corporation when

she wrote after her signature the word “secretary” in the return made by the process server. However, this is denied by the petitioner which insists on the other hand that Melinda is merely its clerical secretary and not the official secretary of the corporation. To this effect, evidence was presented by petitioner.

x x x

Although it maybe true that the service of summons was made on a person not authorized to receive the same in behalf of the petitioner, nevertheless since it appears that the summons and complaint were in fact received by the corporation through its said clerk, the Court finds that there was substantial compliance with the rule on service of summons. Indeed the purpose of said rule as above stated to assure service of summons on the corporation had thereby been attained. The need for speedy justice must prevail over a technicality.’

Needless to state, the above ruling aptly resolves the issue obtaining in this case.” (Order dated February 25, 2003; Emphasis supplied)

The trial court adhered to the erstwhile “substantial compliance” rule on service of summons. It relied on the Supreme Court’s ruling in *G & G Trading Corporation vs. Court of Appeals* (G.R. No. 78299, February 29, 1988, 158 SCRA 466), which applied the then rule on service of summons, i.e., Sec. 13, Rule 14 of the 1964 Rules of Court.

However, in *Mason vs. Court of Appeals* (413 SCRA 303), it was stated that “(t)he question of whether the substantial compliance rule is still applicable under Section 11, Rule 14 of the 1997 Rules of Civil Procedure, has been settled in ”*E.B. Villarosa & Partner Co., Ltd. vs. Benito* (312 SCRA 65).

In *Villarosa*, the Supreme Court ruled that the designation of persons or officers authorized to accept summons for a domestic corporation is now limited and more clearly specified in Sec. 11, Rule 14, id., which provides:

“SEC. 11. Service upon domestic private juridical entity. – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer or in-house counsel.”

Harking on the “strict compliance” rule, the Supreme Court emphasized that the 1997 Rules of Civil Procedure speak of “general manager” instead of mere “manager”, “corporate secretary” instead of “secretary”, and “treasurer” instead of “cashier”; and that the phrase “agent, or any of its directors” was conspicuously deleted in the new Rules.

Finally, the High Tribunal declared in *Mason vs. Court of Appeals* (supra):

“Had the Rules of Court Revision Committee intended to liberalize the rule on service of summons, it could have easily done so by clear and concise language.”

Parenthetically, in her manifestation filed on April 26, 2005, private respondent informed the Court that her counsel caused the service of summons on Gold Line on March 29, 2005 and that the corresponding sheriff’s return indicates that it was Luza who received the summons in behalf of Gold Line. This confirms petitioner’s claim that Luza was/is not under its employ. Apparently, Luza was/is employed with Gold Line.

Accordingly, the service of summons on petitioner thru Luza is invalid; hence, the trial court did not acquire jurisdiction over its person. Consequently, all subsequent proceedings before the court a quo are null and void (*E.B. Villarosa & Partner Co., Ltd. vs. Benito*, supra).

WHEREFORE, the petition is GRANTED. The decision dated November 6, 2000 and orders dated January 5, 1999, February 25, 2003 and February 3, 2004 of the Regional Trial Court of Pasay City (Branch 119) are ANNULLED and SET ASIDE.

SO ORDERED.

Reyes, Jr. and Lanzas, JJ., concur.

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