

R. TRANSPORT CORPORATION PETITIONER, VS. HON. COURT OF APPEALS, FORMER 15TH DIVISION, MANILA, HON. SALVADOR S. ABAD SANTOS, AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF MAKATI, M...

G.R. No. 111187. February 01, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court of the decision of the Court of Appeals in CA-G.R. SP No. 27647 and its resolution dated July 21, 1993 denying petitioner's motion for reconsideration.

I

On November 22, 1991, private respondent filed a complaint for damages arising from breach of contract of carriage against petitioner with the Regional Trial Court, Branch 65, Makati, Metro Manila (docketed as Civil Case No. 91-3242).

Summons addressed to "R. Transport Corporation, Sucat Road, Paranaque" was prepared (Rollo, p. 31).

The process server of the trial court submitted his Officer's Return on December 6, 1991 stating:

"This is to certify that on the 4th day of December 1991, copy of the summons together with complaint and all its annexes attached thereto issued by this Honorable Court in the above-entitled case has been duly served upon the defendant R. Transport, Inc., of Sucat Road, Paranaque and receipt was acknowledge (sic) by Mr. Cesar Pasquin who identified himself as the operation (sic) manager of said company as evidence of (sic) his signature that appears at the lower right portion of the original copy of the summons.

"Wherefore, the original copy of this summons is respectfully returned to the Honorable Court of origin for its record and information, DULY SERVED" (Rollo, p. 60).

In an Order dated January 28, 1991, the trial court, upon ex parte motion of private respondent, declared petitioner in default and appointed a commissioner to receive evidence ex parte on February 18, 1992 (Rollo, p. 32).

On February 14, 1992, petitioner filed a Motion to Dismiss and to Stop Ex parte Reception of Evidence (Rollo, p. 33). It asserted that it was not properly served with summons and-consequently, the trial court did not acquire jurisdiction over its person. It argued that none of the officers enumerated in Section 13, Rule 14 of the Revised Rules of Court (namely, the corporation's president, manager, secretary, cashier, agent or any of its directors) received any summons in Civil Case No. 91-3242.

In an Order dated February 18, 1992, the trial court denied petitioner's motion and allowed private respondent to adduce its evidence ex parte on March 17, 1992 (Rollo, p. 36).

On March 4, 1992, petitioner filed a motion for reconsideration giving as an additional ground therefor that summons was served at Sucat, Paranaque, where its bus terminal was located, and not at its principal office at No. 4474 Singian Street, Makati, Metro Manila, where its president, general manager, secretary, agent and directors hold office. Petitioner asked, inter alia, that the trial court direct "the Clerk of Court to issue another summons together with a copy of the complaint and serve such summons to the President, General Manager, Cashier, or any of its Directors, with offices at Rizal Towers, 4474 Singian St., Makati, Metro Manila, who are authorized by law to receive these summons on behalf of the defendant corporation" (Rollo, p. 39).

In an Order dated March 17, 1992, the trial court denied petitioner's motion for reconsideration for lack of merit (Rollo, p. 44).

Hence, petitioner filed a petition for certiorari with the Court of Appeals to nullify the above three orders of the trial court.

The Court of Appeals dismissed the petition ruling that the trial court did not commit any grave abuse of discretion in declaring the petitioner in default and in denying petitioner's motion for reconsideration.

Petitioner moved for reconsideration of the appellate court's decision, submitting the affidavit of its President to the effect that its Operations Manager was a certain Roger F. Lemi and not Cesar Pasquin.

In its Resolution dated July 21, 1993, the appellate court denied the motion.

Hence, this petition.

II

The affidavit filed by the president of petitioner where she stated that the Operations Manager was not Cesar Pasquin but a certain Roger F. Lemi - deserves scant weight for being self-serving. As correctly held by the appellate court, the allegations in the affidavit cannot overcome the presumption stated in Section 3(m), Rule 131 of the Revised Rules of Court that official duty (that of the service of summons by the process server) had been regularly performed. Thus, credence is to be given to the process server's Officer's Return of December 6, 1991, where it is stated that a copy of the summons was received at Sucat, Paranaque by a Cesar Pasquin, who identified himself as petitioner's Operations Manager.

Furthermore, the certificate of service by the proper officer is prima facie evidence of the facts set out therein. Where such certificate shows that service of summons in an action against a corporation was made by serving a copy thereof on a person therein named and described as the managing agent of the company, it is prima facie evidence of the fact that the person on whom the summons was served was in fact the managing agent of the company. To overcome the presumption arising from the certificate, the evidence must be clear and convincing (*Vargas and Co. v. Chan Hang Chiu*, 29 Phil. 446 [1915]). Petitioner has failed to overcome such presumption.

We now come to the issue of whether there was valid service of summons. Petitioner contends that the summons was not served on the proper officer of the corporation holding office in Singian Street, Makati, Metro Manila, but on the Operations Manager at petitioner's bus terminal in Sucat, Paranaque.

As a general rule, service of summons must be made on the persons named in Section 13, Rule 14 of the Revised Rules of Court which provides:

"Service upon private domestic corporation or partnership. - If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent or any of its directors."

Thus service on persons other than those mentioned in said Rule has been held as improper (*ATM Trucking, Inc. v. Buencamino*, 124 SCRA 434 [1983]; *Delta Motors Sales Corporation v. Mangosing*, 70 SCRA 598 [1976]).

Through the years, the rule on service of summons has been liberalized. Such liberalization is to give life to the rationale behind Section 13 of Rule 14, stated in *Villa Rey Transit, Inc. v. Far East Motor Corporation*, 81 SCRA 298 (1978) thus:

“The rationale of all rules for service of process on corporations is that service must be made on a representative so integrated with the corporation sued as to make it a priori supposable that he will realize his responsibilities and know what he should do with any legal papers served on him.”

Thus service of summons on persons other than those enumerated in Section 13 of Rule 14 have been held proper on the theory that those persons served were holding positions of responsibility and could appreciate the importance of the papers handed them, and could be expected to deliver the papers to the proper officer (*Rebollido v. Court of Appeals*, 170 SCRA 800 [1989]). These persons ranged from ordinary clerks (*Golden Country Farms Inc. v. Sanvar Development Corporation*, 214 SCRA 295 [1992]; *G & G Trading v. Court of Appeals*, 158 SCRA 466 [1988], private secretaries of corporate executives (*Summit Trading and Development Corporation v. Avendaño*, 135 SCRA 397 [1985], retained counsel (*Republic v. Ker & Company, Ltd.*, 18 SCRA 207 [1966], officials who had charge or control of the operations of the corporation, like the Assistant General Manager (*Villa Rey Transit, Inc. v. Far East Motor Corporation*, supra), and the corporation’s Chief of Finance and Administrative Officer (*Far Corporation v. Francisco*, 146 SCRA 197 [1986]). These individuals were considered “agents” within the contemplation of Section 13 of Rule 14 (*Filoil Marketing Corporation v. Marine Development Corporation of the Philippines*, 117 SCRA 86 [1982]; *Summit Trading and Development Corporation v. Francisco*, supra).

Thus, we hold that service of summons on petitioner’s Operations Manager was valid. He is an officer who may be relied upon to appreciate the importance of the papers served on him. The purpose of Section 13 of Rule 14 was served. The fact that service was made at petitioner’s bus terminal at the address stated in the summons and not at its office in Makati does not render the service of summons invalid. In *Villa Rey Transit, Inc.*, supra, we held valid the service of summons made on the corporation’s Assistant General Manager for Operations holding office at the “sub-station” in Sampaloc, Manila.

As held in *Gesulgon v. National Labor Relations Commission*, 219 SCRA 561 (1993), where service of summons was effected on the corporation’s Assistant Manager:

“It would be contrary to public policy to permit a corporation to free itself from the consequences of service upon it of legal process by pleading the supposed failure of one of its officers to carry out the duties incumbent upon such officer” (at pp. 569-570).

Petitioner is engaged in the transportation business, operating over 100 buses. Its central bus terminal is located at Sucat, Paranaque, from where it conducts the bulk of its business. It was at that terminal where petitioner’s Operations Manager was found and upon whom service was made. We distinguish the instant case from *First Integrated Bonding & Insurance Co., Inc. v. Dizon*, 125 SCRA 440 (1983), where we held that a branch manager does not come within the enumeration of Section 13, Rule 14, who are officers whose duties generally pertain to the overall transportation business of the corporation and not merely to a branch or department thereof.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo and Kapunan, JJ., concur.

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