MA. IMELDA M. MANOTOC, PETITIONER, VS. HONORABLE COURT OF APPEALS AND AGAPITA TRAJANO ON BEHALF OF THE ESTATE OF ARCHIMEDES TRAJANO, RESPONDENTS.

G.R. NO. 130974. August 16, 2006

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

The court's jurisdiction over a defendant is founded on a valid service of summons. Without a valid service, the court cannot acquire jurisdiction over the defendant, unless the defendant voluntarily submits to it. The defendant must be properly apprised of a pending action against him and assured of the opportunity to present his defenses to the suit. Proper service of summons is used to protect one's right to due process.

The Case

This Petition for Review on Certiorari[1] under Rule 45 presents the core issue whether there was a valid substituted service of summons on petitioner for the trial court to acquire jurisdiction. Petitioner Manotoc claims the court a quo should have annulled the proceedings in the trial court for want of jurisdiction due to irregular and ineffective service of summons.

The Facts

Petitioner is the defendant in Civil Case No. 63337 entitled Agapita Trajano, pro se, and on behalf of the Estate of Archimedes Trajano v. Imelda "Imee" R. Marcos-Manotoc[2] for Filing, Recognition and/or Enforcement of Foreign Judgment. Respondent Trajano seeks the enforcement of a foreign court's judgment rendered on May 1, 1991 by the United States District Court of Honolulu, Hawaii, United States of America, in a case entitled Agapita Trajano, et al. v. Imee Marcos-Manotoc a.k.a. Imee Marcos, Civil Case No. 86-0207 for wrongful death of deceased Archimedes Trajano committed by military intelligence officials of the Philippines allegedly under the command, direction, authority, supervision, tolerance, sufferance and/or influence of defendant Manotoc, pursuant to the provisions of Rule 39 of the then Revised Rules of Court.

Based on paragraph two of the Complaint, the trial court issued a Summons[3] on July 6, 1993 addressed to petitioner at Alexandra Condominium Corporation or Alexandra Homes, E2 Room 104, at No. 29 Meralco Avenue, Pasig City.

On July 15, 1993, the Summons and a copy of the Complaint were allegedly served upon (Mr.) Macky de la Cruz, an alleged caretaker of petitioner at the condominium unit mentioned earlier.[4] When petitioner failed to file her Answer, the trial court declared her in default through an Order[5] dated October 13, 1993.

On October 19, 1993, petitioner, by special appearance of counsel, filed a Motion to Dismiss[6] on the ground of lack of jurisdiction of the trial court over her person due to an invalid substituted service of summons. The grounds to support the motion were: (1) the address of defendant indicated in the Complaint (Alexandra Homes) was not her dwelling, residence, or regular place of business as provided in Section 8, Rule 14 of the Rules of

Court; (2) the party (de la Cruz), who was found in the unit, was neither a representative, employee, nor a resident of the place; (3) the procedure prescribed by the Rules on personal and substituted service of summons was ignored; (4) defendant was a resident of Singapore; and (5) whatever judgment rendered in this case would be ineffective and futile.

During the hearing on the Motion to Dismiss, petitioner Manotoc presented Carlos Gonzales, who testified that he saw defendant Manotoc as a visitor in Alexandra Homes only two times. He also identified the Certification of Renato A. de Leon, which stated that Unit E-2104 was owned by Queens Park Realty, Inc.; and at the time the Certification was issued, the unit was not being leased by anyone. Petitioner also presented her Philippine passport and the Disembarkation/Embarkation Card[7] issued by the Immigration Service of Singapore to show that she was a resident of Singapore. She claimed that the person referred to in plaintiff's Exhibits "A" to "EEEE" as "Mrs. Manotoc" may not even be her, but the mother of Tommy Manotoc, and granting that she was the one referred to in said exhibits, only 27 out of 109 entries referred to Mrs. Manotoc. Hence, the infrequent number of times she allegedly entered Alexandra Homes did not at all establish plaintiff's position that she was a resident of said place.

On the other hand, Agapita Trajano, for plaintiffs' estate, presented Robert Swift, lead counsel for plaintiffs in the Estate of Ferdinand Marcos Human Rights Litigation, who testified that he participated in the deposition taking of Ferdinand R. Marcos, Jr.; and he confirmed that Mr. Marcos, Jr. testified that petitioner's residence was at the Alexandra Apartment, Greenhills.[8] In addition, the entries[9] in the logbook of Alexandra Homes from August 4, 1992 to August 2, 1993, listing the name of petitioner Manotoc and the Sheriff's Return,[10] were adduced in evidence.

On October 11, 1994, the trial court rejected Manotoc's Motion to Dismiss on the strength of its findings that her residence, for purposes of the Complaint, was Alexandra Homes, Unit E-2104, No. 29 Meralco Avenue, Pasig, Metro Manila, based on the documentary evidence of respondent Trajano. The trial court relied on the presumption that the sheriff's substituted service was made in the regular performance of official duty, and such presumption stood in the absence of proof to the contrary. [11]

On December 21, 1994, the trial court discarded Manotoc's plea for reconsideration for lack of merit.[12]

Undaunted, Manotoc filed a Petition for Certiorari and Prohibition[13] before the Court of Appeals (CA) on January 20, 1995, docketed as CA-G.R. SP No. 36214 seeking the annulment of the October 11, 1994 and December 21, 1994 Orders of Judge Aurelio C. Trampe.

Ruling of the Court of Appeals

On March 17, 1997, the CA rendered the assailed Decision,[14] dismissing the Petition for Certiorari and Prohibition. The court a quo adopted the findings of the trial court that petitioner's residence was at Alexandra Homes, Unit E-2104, at No. 29 Meralco Avenue, Pasig, Metro Manila, which was also the residence of her husband, as shown by the testimony of Atty. Robert Swift and the Returns of the registered mails sent to petitioner. It ruled that the Disembarkation/Embarkation Card and the Certification dated September 17, 1993 issued by Renato A. De Leon, Assistant Property Administrator of Alexandra Homes, were hearsay, and that said Certification did not refer to July 1993—the month when the substituted service was effected.

In the same Decision, the CA also rejected petitioner's Philippine passport as proof of her residency in Singapore as it merely showed the dates of her departure from and arrival in the Philippines without presenting the boilerplate's last two (2) inside pages where petitioner's residence was indicated. The CA considered the withholding of those pages as suppression of evidence. Thus, according to the CA, the trial court had acquired

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jurisdiction over petitioner as there was a valid substituted service pursuant to Section 8, Rule 14 of the old Revised Rules of Court.

On April 2, 1997, petitioner filed a Motion for Reconsideration[15] which was denied by the CA in its Resolution[16] dated October 8, 1997.

Hence, petitioner has come before the Court for review on certiorari.

The Issues

Petitioner raises the following assignment of errors for the Court's consideration:

> - RESPONDENT COURT OF APPEALS COMMITTED [A] SERIOUS ERROR IN RENDERING THE DECISION AND RESOLUTION IN QUESTION (ANNEXES A AND B) IN DEFIANCE OF LAW AND JURISPRUDENCE IN RULING THAT THE TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSON OF THE PETITIONER THROUGH A SUBSTITUTED SERVICE OF SUMMONS IN ACCORDANCE WITH SECTION 8, RULE 14 OF THE REVISED RULES OF COURT.
>
> - RESPONDENT COURT OF APPEALS COMMITTED [A] SERIOUS ERROR WHEN IT RULED THAT THERE WAS A VALID SERVICE OF SUMMONS ON AN ALLEGED CARETAKER OF PETITIONER'S RESIDENCE IN COMPLETE DEFIANCE OF THE RULING IN CASTILLO VS. CFI OF BULACAN, BR. IV, G.R. NO. L-55869, FEBRUARY 20, 1984, 127 SCRA 632 WHICH DEFINES THE PROPRIETY OF SUCH SERVICE UPON MERE OVERSEERS OF PREMISES WHERE A PARTY SUPPOSEDLY RESIDES.
>
> - RESPONDENT COURT OF APPEALS COMMITTED [A] SERIOUS ERROR IN CONCLUDING THAT THE RESIDENCE OF THE HUSBAND IS ALSO THE RESIDENCE OF HIS WIFE CONTRARY TO THE RULING IN THE BANK OF THE PHILIPPINE ISLANDS VS. DE COSTER, G.R. NO. 23181, MARCH 16, 1925, 47 PHIL. 594.
>
> - RESPONDENT COURT OF APPEALS COMMITTED [A] SERIOUS ERROR IN FAILING TO APPLY THE RULE ON EXTRA-TERRITORIAL SERVICE OF SUMMONS UNDER SECTIONS 17 AND 18, RULE 14 OF THE REVISED RULES OF COURT.[17]

The assigned errors bring to the fore the crux of the disagreement—the validity of the substituted service of summons for the trial court to acquire jurisdiction over petitioner.

The Court's Ruling

We GRANT the petition.

Acquisition of Jurisdiction

Jurisdiction over the defendant is acquired either upon a valid service of summons or the defendant's voluntary appearance in court. When the defendant does not voluntarily submit to the court's jurisdiction or when there is no valid service of summons, "any judgment of the court which has no jurisdiction over the person of the defendant is null and void."[18] In an action strictly in personam, personal service on the defendant is the preferred mode of service, that is, by handing a copy of the summons to the defendant in person. If defendant, for excusable reasons, cannot be served with the summons within a reasonable period, then substituted service can be resorted to. While substituted service of summons is permitted, "it is extraordinary in character and in derogation of the usual method of service."[19] Hence, it must faithfully and strictly comply with the prescribed requirements and circumstances authorized by the rules. Indeed, "compliance with the rules regarding the service of summons is as much important as the issue of due process as of jurisdiction."[20]

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Requirements for Substituted Service

Section 8 of Rule 14 of the old Revised Rules of Court which applies to this case provides:

> SEC. 8.[21] Substituted service. – If the defendant cannot be served within a reasonable time as provided in the preceding section [personal service on defendant], service may be effected (a) by leaving copies of the summons at the defendant's 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.

We can break down this section into the following requirements to effect a valid substituted service:

(1) Impossibility of Prompt Personal Service

The party relying on substituted service or the sheriff must show that defendant cannot be served promptly or there is impossibility of prompt service.[22] Section 8, Rule 14 provides that the plaintiff or the sheriff is given a "reasonable time" to serve the summons to the defendant in person, but no specific time frame is mentioned. "Reasonable time" is defined as "so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any[,] to the other party."[23] Under the Rules, the service of summons has no set period. However, when the court, clerk of court, or the plaintiff asks the sheriff to make the return of the summons and the latter submits the return of summons, then the validity of the summons lapses. The plaintiff may then ask for an alias summons if the service of summons has failed.[24] What then is a reasonable time for the sheriff to effect a personal service in order to demonstrate impossibility of prompt service? To the plaintiff, "reasonable time" means no more than seven (7) days since an expeditious processing of a complaint is what a plaintiff wants. To the sheriff, "reasonable time" means 15 to 30 days because at the end of the month, it is a practice for the branch clerk of court to require the sheriff to submit a return of the summons assigned to the sheriff for service. The Sheriff's Return provides data to the Clerk of Court, which the clerk uses in the Monthly Report of Cases to be submitted to the Office of the Court Administrator within the first ten (10) days of the succeeding month. Thus, one month from the issuance of summons can be considered "reasonable time" with regard to personal service on the defendant.

Sheriffs are asked to discharge their duties on the service of summons with due care, utmost diligence, and reasonable promptness and speed so as not to prejudice the expeditious dispensation of justice. Thus, they are enjoined to try their best efforts to accomplish personal service on defendant. On the other hand, since the defendant is expected to try to avoid and evade service of summons, the sheriff must be resourceful, persevering, canny, and diligent in serving the process on the defendant. For substituted service of summons to be available, there must be several attempts by the sheriff to personally serve the summons within a reasonable period [of one month] which eventually resulted in failure to prove impossibility of prompt service. "Several attempts" means at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.

(2) Specific Details in the Return

The sheriff must describe in the Return of Summons the facts and circumstances surrounding the attempted personal service.[25] The efforts made to find the defendant and the reasons behind the failure must be clearly narrated in detail in the Return. The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. The form on Sheriff's Return of Summons on Substituted Service prescribed in the Handbook for Sheriffs

published by the Philippine Judicial Academy requires a narration of the efforts made to find the defendant personally and the fact of failure.[26] Supreme Court Administrative Circular No. 5 dated November 9, 1989 requires that "impossibility of prompt service should be shown by stating the efforts made to find the defendant personally and the failure of such efforts," which should be made in the proof of service.

(3) A Person of Suitable Age and Discretion

If the substituted service will be effected at defendant's house or residence, it should be left with a person of "suitable age and discretion then residing therein."[27] A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. "Discretion" is defined as "the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed".[28] Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the "relation of confidence" to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipient's relationship with the defendant is, and whether said person comprehends the significance of the receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.

(4) A Competent Person in Charge

If the substituted service will be done at defendant's office or regular place of business, then it should be served on a competent person in charge of the place. Thus, the person on whom the substituted service will be made must be the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. Again, these details must be contained in the Return.
Invalid Substituted Service in the Case at Bar

Let us examine the full text of the Sheriff's Return, which reads:

> THIS IS TO CERTIFY that on many occasions several attempts were made to serve the summons with complaint and annexes issued by this Honorable Court in the above entitled case, personally upon the defendant IMELDA "IMEE" MARCOS-MANOTOC located at Alexandra Condominium Corpration [sic] or Alexandra Homes E-2 Room 104 No. 29 Merlaco [sic] Ave., Pasig, Metro-Manila at reasonable hours of the day but to no avail for the reason that said defendant is usually out of her place and/or residence or premises. That on the 15th day of July, 1993, substituted service of summons was resorted to in accordance with the Rules of Court in the Philippines leaving copy of said summons with complaint and annexes thru [sic] (Mr) Macky de la Cruz, caretaker of the said defendant, according to (Ms) Lyn Jacinto, Receptionist and Telephone Operator of the said building, a person of suitable age and discretion, living with the said defendant at the given address who acknowledged the receipt thereof of said processes but he refused to sign (emphases supplied).
>
> WHEREFORE, said summons is hereby returned to this Honorable Court of origin, duly served for its record and information.
>
> Pasig, Metro-Manila July 15, 1993.[29]

A meticulous scrutiny of the aforementioned Return readily reveals the absence of material data on the serious

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efforts to serve the Summons on petitioner Manotoc in person. There is no clear valid reason cited in the Return why those efforts proved inadequate, to reach the conclusion that personal service has become impossible or unattainable outside the generally couched phrases of "on many occasions several attempts were made to serve the summons x x x personally," "at reasonable hours during the day," and "to no avail for the reason that the said defendant is usually out of her place and/or residence or premises." Wanting in detailed information, the Return deviates from the ruling—in Domagas v. Jensen[30] and other related cases[31]—that the pertinent facts and circumstances on the efforts exerted to serve the summons personally must be narrated in the Return. It cannot be determined how many times, on what specific dates, and at what hours of the day the attempts were made. Given the fact that the substituted service of summons may be assailed, as in the present case, by a Motion to Dismiss, it is imperative that the pertinent facts and circumstances surrounding the service of summons be described with more particularity in the Return or Certificate of Service.

Besides, apart from the allegation of petitioner's address in the Complaint, it has not been shown that respondent Trajano or Sheriff Cañ elas, who served such summons, exerted extraordinary efforts to locate petitioner. Certainly, the second paragraph of the Complaint only states that respondents were "informed, and so [they] allege" about the address and whereabouts of petitioner. Before resorting to substituted service, a plaintiff must demonstrate an effort in good faith to locate the defendant through more direct means.[32] More so, in the case in hand, when the alleged petitioner's residence or house is doubtful or has not been clearly ascertained, it would have been better for personal service to have been pursued persistently.

In the case Umandap v. Sabio, Jr.,[33] it may be true that the Court held that a Sheriff's Return, which states that "despite efforts exerted to serve said process personally upon the defendant on several occasions the same proved futile," conforms to the requirements of valid substituted service. However, in view of the numerous claims of irregularities in substituted service which have spawned the filing of a great number of unnecessary special civil actions of certiorari and appeals to higher courts, resulting in prolonged litigation and wasteful legal expenses, the Court rules in the case at bar that the narration of the efforts made to find the defendant and the fact of failure written in broad and imprecise words will not suffice. The facts and circumstances should be stated with more particularity and detail on the number of attempts made at personal service, dates and times of the attempts, inquiries to locate defendant, names of occupants of the alleged residence, and the reasons for failure should be included in the Return to satisfactorily show the efforts undertaken. That such efforts were made to personally serve summons on defendant, and those resulted in failure, would prove impossibility of prompt personal service.

Moreover, to allow sheriffs to describe the facts and circumstances in inexact terms would encourage routine performance of their precise duties relating to substituted service—for it would be quite easy to shroud or conceal carelessness or laxity in such broad terms. Lastly, considering that monies and properties worth millions may be lost by a defendant because of an irregular or void substituted service, it is but only fair that the Sheriff's Return should clearly and convincingly show the impracticability or hopelessness of personal service.

Granting that such a general description be considered adequate, there is still a serious nonconformity from the requirement that the summons must be left with a "person of suitable age and discretion" residing in defendant's house or residence. Thus, there are two (2) requirements under the Rules: (1) recipient must be a person of suitable age and discretion; and (2) recipient must reside in the house or residence of defendant. Both requirements were not met. In this case, the Sheriff's Return lacks information as to residence, age, and discretion of Mr. Macky de la Cruz, aside from the sheriff's general assertion that de la Cruz is the "resident caretaker" of petitioner as pointed out by a certain Ms. Lyn Jacinto, alleged receptionist and telephone operator of Alexandra Homes. It is doubtful if Mr. de la Cruz is residing with petitioner Manotoc in the condominium unit considering that a married woman of her stature in society would unlikely hire a male caretaker to reside in her dwelling. With

the petitioner's allegation that Macky de la Cruz is not her employee, servant, or representative, it is necessary to have additional information in the Return of Summons. Besides, Mr. Macky de la Cruz's refusal to sign the Receipt for the summons is a strong indication that he did not have the necessary "relation of confidence" with petitioner. To protect petitioner's right to due process by being accorded proper notice of a case against her, the substituted service of summons must be shown to clearly comply with the rules.

It has been stated and restated that substituted service of summons must faithfully and strictly comply with the prescribed requirements and in the circumstances authorized by the rules. [34]

Even American case law likewise stresses the principle of strict compliance with statute or rule on substituted service, thus:

> The procedure prescribed by a statute or rule for substituted or constructive service must be strictly pursued.[35] There must be strict compliance with the requirements of statutes authorizing substituted or constructive service.[36]
>
> Where, by the local law, substituted or constructive service is in certain situations authorized in the place of personal service when the latter is inconvenient or impossible, a strict and literal compliance with the provisions of the law must be shown in order to support the judgment based on such substituted or constructive service.[37] Jurisdiction is not to be assumed and exercised on the general ground that the subject matter of the suit is within the power of the court. The inquiry must be as to whether the requisites of the statute have been complied with, and such compliance must appear on the record.[38] The fact that the defendant had actual knowledge of attempted service does not render the service effectual if in fact the process was not served in accordance with the requirements of the statute.[39]

Based on the above principles, respondent Trajano failed to demonstrate that there was strict compliance with the requirements of the then Section 8, Rule 14 (now Section 7, Rule 14 of the 1997 Rules of Civil Procedure).

Due to non-compliance with the prerequisites for valid substituted service, the proceedings held before the trial court perforce must be annulled.

The court a quo heavily relied on the presumption of regularity in the performance of official duty. It reasons out that "[t]he certificate of service by the proper officer is prima facie evidence of the facts set out herein, and to overcome the presumption arising from said certificate, the evidence must be clear and convincing."[40]

The Court acknowledges that this ruling is still a valid doctrine. However, for the presumption to apply, the Sheriff's Return must show that serious efforts or attempts were exerted to personally serve the summons and that said efforts failed. These facts must be specifically narrated in the Return. To reiterate, it must clearly show that the substituted service must be made on a person of suitable age and discretion living in the dwelling or residence of defendant. Otherwise, the Return is flawed and the presumption cannot be availed of. As previously explained, the Return of Sheriff Cañelas did not comply with the stringent requirements of Rule 14, Section 8 on substituted service.

In the case of Venturanza v. Court of Appeals,[41] it was held that "x x x the presumption of regularity in the performance of official functions by the sheriff is not applicable in this case where it is patent that the sheriff's return is defective (emphasis supplied)." While the Sheriff's Return in the Venturanza case had no statement on the effort or attempt to personally serve the summons, the Return of Sheriff Cañelas in the case at bar merely described the efforts or attempts in general terms lacking in details as required by the ruling in the case of Domagas v. Jensen and other cases. It is as if Cañelas' Return did not mention any effort to accomplish personal service. Thus, the substituted service is void.

On the issue whether petitioner Manotoc is a resident of Alexandra Homes, Unit E-2104, at No. 29 Meralco Avenue, Pasig City, our findings that the substituted service is void has rendered the matter moot and academic. Even assuming that Alexandra Homes Room 104 is her actual residence, such fact would not make an irregular and void substituted service valid and effective.

IN VIEW OF THE FOREGOING, this Petition for Review is hereby GRANTED and the assailed March 17, 1997 Decision and October 8, 1997 Resolution of the Court of Appeals and the October 11, 1994 and December 21, 1994 Orders of the Regional Trial Court, National Capital Judicial Region, Pasig City, Branch 163 are hereby REVERSED and SET ASIDE. No costs.
SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales and Tinga, JJ., concur.

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[1] Dated October 24, 1997, rollo, pp. 3-18.

[2] Complaint, dated June 25, 1993, Annex "C" of Petition, rollo, pp. 32-36.

[3] Dated July 6, 1993, Annex "D" of Petition, rollo, p. 37, records, p. 28.

[4] Sheriff's Return, dated July 15, 1993, Annex "E" of Petition, rollo, p. 38, records, p. 29.

[5] Annex "G" of Petition, rollo, p. 41, records, p. 33.

[6] Dated October 18, 1993, Annex "H" of Petition, rollo, pp. 42-44, records, pp. 35-37.

[7] Exhibit "3", records, pp. 95-96.

[8] Rollo, p. 25-26.

[9] Exhibits "A" to "EEEEE," records, pp. 152-258.

[10] Supra note 4.

[11] Records, p. 275, par. 3.

[12] RTC Pasig Branch 163 Order, records, p. 309.

[13] Rollo, p. 58.

[14] CA rollo, pp. 77-86. (penned by Associate Justice B.A. Adefuin-Dela Cruz, with Associate Justices Pedro A. Ramirez and Ricardo P. Galvez concurring).

[15] Rollo, p. 72.

[16] Rollo, p. 31.

[17] Rollo, pp. 7-8.

[18] Domagas v. Jensen, G.R. No. 158407, January 17, 2005, 448 SCRA 663, 677, citing Lam v. Rosillosa, G.R. No. L-3595, May 22, 1950, 86 Phil. 447.

[19] Id. at 678, citing Hamilton v. Levy, G.R. No. 139283, November 15, 2000, 344 SCRA 821.

[20] Id. at 679, citing Ang Ping v. CA, G.R. No. 126947, July 15, 1999, 369 Phil. 607, 310 SCRA 343.

[21] Now 1997 Rules of Civil Procedure, Rule 14, Sec. 7.

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[22] Arevalo v. Quitalan, G.R. No. 57892, September 21, 1982, 116 SCRA 700, 707.

[23] Far Eastern Realty Investment, Inc. v. CA, G.R. No. L-36549, October 5, 1988, 166 SCRA 256, 262.

[24] Supra note 21, Sec. 5.

[25] Domagas v. Jensen, supra note 14, at 678.

[26] A Handbook for Sheriffs (October 2003), p. 116.

[27] Revised Rules of Court, Rule 14, Sec. 8.

[28] Webster's Third New International Dictionary (1993), p. 647.

[29] Supra note 4.

[30] Supra note 13.

[31] See Samartino v. Raon, G.R. No. 131482, July 3, 2002, 383 SCRA 664, 669; Hamilton v. Levy, G.R. No. 139283, November 15, 2000, 344 SCRA 821, 829; and Madrigal v. CA, G.R. No. 129955, November 26, 1999, 319 SCRA 331, 336.

[32] 62B Am Jur 2d, Process § 147, citing Romeo v. Looks, 369 Pa Super 608, 535 A2d 1101, app den 518

Pa 641, 542 A2d 1370 and app den 518 Pa 642, 542 A2d 1370.

[33] G.R. No. 140244, August 29, 2000, 339 SCRA 243, 249.

[34] Domagas v. Jensen, supra note 15, at 679.

[35] 62B Am Jur 2d, Process § 150, p. 857, citing Guaranty Trust & Safe Deposit Co. v. Green Cove S. & M.R.. Co., 139 US 137, 35 L Ed 116, 11 S Ct 512.

[36] Id. at 857-858, citing Miller v. Corning Glass Works, 102 Ariz 326, 429 P2d 438.

[37] Id. at 858, citing Grannis v. Ordean, 234 US 385, 53 L Ed 1363, 34 S Ct 779.

[38] Id., citing Galpin v. Page, 85 US 350, 21 L Ed 959.

[39] Id., citing Napoleon B. Broward Drainage Dist. v. Certain Lands, etc., 160 Fla 120, 33 So 2d 716.

[40] Rollo, p. 28.

[41] G.R. No. L-77760, December 11, 1987, 156 SCRA 305, 313.

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