

THE PHILIPPINE AMERICAN LIFE & GENERAL INSURANCE COMPANY, PETITIONER, VS. HON. AUGUSTO V. BREVA, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, DAVAO CITY, BRANCH 10,...

G.R. No. 147937. November 11, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review of the Decision[1] of the Court of Appeals (CA), dated October 24, 2000, dismissing the special civil action for certiorari and prohibition filed by the petitioner, The Philippine American Life & General Insurance Company, and the Resolution dated April 25, 2001, denying the petitioner's motion for reconsideration.

The petitioner is a domestic corporation duly organized under Philippine laws with principal address at the Philamlife Building, United Nations Avenue, Ermita, Manila, and with a regional office in Davao City.

The Antecedents

On September 22, 1999, respondent Milagros P. Morales filed a Complaint[2] for damages and reimbursement of insurance premiums against the petitioner with the Regional Trial Court (RTC) of Davao City, Branch 10, docketed as Civil Case No. 27554-99. The complaint specifically stated that the petitioner could be served with summons and other court processes through its Manager at its branch office located at Rizal St., Davao City.

Thereafter, Summons[3] dated September 29, 1999, together with the complaint, was served upon the petitioner's Davao regional office, and was received by its Insurance Service Officer, Ruthie Babael, on November 19, 1999.[4]

On December 8, 1999, the petitioner filed a Motion to Dismiss[5] the complaint on the ground of lack of jurisdiction over its person due to improper service of summons. It contended that summons was improperly served upon its employee in its regional office at Davao City, and that the said employee was not among those named in Section 11,[6] Rule 14 of the 1997 Rules of Civil Procedure upon whom service of summons may be properly made.

On December 9, 1999, the respondent filed an Amended Complaint,[7] alleging that summons and other court processes could also be served at its principal office at the Philamlife Building, U.N. Avenue, Ermita, Manila, through the president or any of its officers authorized to receive summons.

On December 10, 1999, the RTC issued an Order[8] denying the petitioner's motion to dismiss and directing the issuance of an alias summons to be served at its main office in Manila.[9]

The RTC held that the improper service of summons on the petitioner is not a ground for dismissal of the complaint considering that the case was still in its initial stage. It ruled that the remedy was to issue an alias

summons to be served at the principal office of the petitioner. It also held that the jurisprudence cited by the petitioner was inapplicable, as it involved a case already decided by a court which did not have jurisdiction over the defendant therein due to improper service of summons.

On January 12, 2000, the petitioner filed a Motion for Reconsideration[10] of the said order. In the meantime, on December 14, 1999, the petitioner received an Alias Summons[11] together with a copy of the amended complaint.

On January 14, 2000, the RTC issued an Order[12] denying the petitioner's motion for reconsideration and supplemental oral motion to strike out the amended complaint. The RTC reiterated that it would be improper to dismiss the case at its early stage because the remedy would be to issue an alias summons. Anent the motion to strike out the amended complaint, the RTC held that the complaint may be amended without leave of court considering that the respondent had not yet filed an answer thereto.

On March 2, 2000, the petitioner filed with the CA a special action for certiorari and prohibition under Rule 65, with application for a writ of preliminary injunction and/or temporary restraining order, assailing the Orders dated December 10, 1999 and January 14, 2000.

On October 24, 2000, the CA dismissed the petition and affirmed the assailed orders of the RTC. The CA held that the service of the alias summons on the amended complaint upon the authorized officers of the petitioner at its principal office in Manila vested the RTC with jurisdiction over its person. The CA, likewise, denied the petitioner's motion for reconsideration of the said decision on April 25, 2001.

Hence, this petition for review.

The petitioner avers that the trial court committed grave abuse of discretion when it denied the motion to dismiss on the ground of lack of jurisdiction over its person because the service of the summons at its regional office through an insurance service officer was improper. Sec. 11, Rule 14 of the 1997 Revised Rules of Civil Procedure is strict as to the persons upon whom valid service of summons on a corporation can be made. The petitioner argues that where summons is improperly served, it becomes ministerial upon the trial court, on motion of the defendant, to dismiss the complaint pursuant to Sec. 1(a),[13] Rule 16 of the 1997 Revised Rules of Civil Procedure.

The petitioner further avers that the trial court did not acquire jurisdiction over it upon the service of alias summons on the amended complaint because such alias summons was improperly issued. Sec. 5,[14] Rule 14 of the 1997 Revised Rules of Civil Procedure explicitly provides that the previous summons must have been lost or unserved to warrant the issuance of alias summons. The petitioner opines that the issuance of an alias summons presupposes the existence of a previous valid summons which, however, has not been served or has been lost. It maintains that considering that there are specific circumstances that need to exist to warrant its issuance, the alias summons cannot be treated as a matter of nomenclature.[15]

The respondent, for her part, avers that the receipt of the amended complaint together with the alias summons by the petitioner cured the defects in the first service of summons. She argues that any procedural defect on the service of alias summons is not sufficient to warrant the dismissal of the case.[16]

The Court's Ruling

The core issues in this case are (1) whether the trial court committed grave abuse of discretion in denying the motion to dismiss on the ground of lack of jurisdiction over the person of the petitioner due to improper service of summons, and (2) whether the trial court acquired jurisdiction over the person of the petitioner as the defendant

therein.

The petition is without merit.

The trial court did not commit grave abuse of discretion when it denied the motion to dismiss filed by the petitioner due to lack of jurisdiction over its person. In denying the motion to dismiss, the CA correctly relied on the ruling in *Lingner & Fisher GMBH vs. Intermediate Appellate Court*,^[17] thus:

A case should not be dismissed simply because an original summons was wrongfully served. It should be difficult to conceive, for example, that when a defendant personally appears before a Court complaining that he had not been validly summoned, that the case filed against him should be dismissed. An alias summons can be actually served on said defendant.^[18]

In the recent case of *Teh vs. Court of Appeals*,^[19] the petitioner therein also filed a motion to dismiss before filing his answer as defendant in the trial court on the ground of failure to serve the summons on him. In that case, the Court agreed with the appellate court's ruling that there was no abuse of discretion on the part of the trial court when the latter denied the petitioner's motion to dismiss the complaint and ordered the issuance of an alias summons.^[20]

We note, however, that in this case, the complaint was amended after the petitioner filed the motion to dismiss. The trial court even acknowledged this when it rendered its order denying the motion to dismiss and ordered the issuance of an alias summons. The Rules on Civil Procedure provide that the amended complaint supersedes the complaint that it amends.^[21] Contrary to the petitioner's claim, the summons issued on the amended complaint does not become invalid. In fact, summons on the original complaint which has already been served continues to have its legal effect. Thus, where the defendant has already been served summons on the original complaint, the amended complaint may be served upon him without need of another summons. Conversely, when no summons has yet been validly served on the defendant, new summons for the amended complaint must be served on him.^[22]

In the instant case, since at the time the complaint was amended no summons had been properly served on the petitioner and it had not yet appeared in court, new summons should have been issued on the amended complaint.^[23] Hence, the CA was correct when it held that, technically, the trial court should have ordered the issuance of an original summons, not an alias summons.^[24] After all, an alias summons is merely a continuation of the original summons. In this case, however, there was no sense in issuing an alias summons on the original complaint since the complaint had already been amended. The trial court should have instead issued a new summons on the amended complaint.

Nonetheless, the CA deemed it necessary to treat the alias summons as a matter of nomenclature, considering that the rationale behind the service of summons – to make certain that the corporation would promptly and properly receive notice of the filing of an action against it – has been served in this case. The CA held that it would be a great injustice to the respondent if the complaint would be dismissed just because what was issued and served was an alias summons; that she would be made to file a new complaint and thus, incur further monetary burden.^[25]

We agree with the CA. It is not pertinent whether the summons is designated as an "original" or an "alias" summons as long as it has adequately served its purpose. What is essential is that the summons complies with the requirements under the Rules of Court and it has been duly served on the defendant together with the prevailing complaint. In this case, the alias summons satisfies the requirements under the Rules, both as to its content and the manner of service. It contains all the information required under the rules, and it was served on the persons authorized to receive the summons on behalf of the petitioner at its principal office in Manila. Moreover, the second summons was technically not an alias summons but more of a new summons on the amended complaint. It

was not a continuation of the first summons considering that it particularly referred to the amended complaint and not to the original complaint.

WHEREFORE, the petition is DENIED for lack of merit. The October 24, 2000 Decision and the April 25, 2001 Resolution of the Court of Appeals are hereby AFFIRMED.

SO ORDERED.

Austria-Martinez, and Chico-Nazario, JJ., concur.

Puno, (Chairman), J., on official leave.

Tinga, J., on leave.

[1] Penned by Associate Justice Bienvenido L. Reyes, with Associate Justices Ramon A. Barcelona and Rodrigo V. Cosico, concurring.

[2] Rollo, p. 32.

[3] Id. at 31.

[4] CA Rollo, p. 5.

[5] Rollo, p. 41.

[6] 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, a managing partner, general manager, corporate secretary, treasurer, or in-house counsel.

[7] Rollo, p. 53.

[8] Id. at 46.

[9] Id.

[10] Id. at 47.

[11] Id. at 52.

[12] Id. at 61.

[13] Section 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

(a) That the court has no jurisdiction over the person of the defending party;

[14] Section 5. Issuance of alias summons. — If a summons is returned without being served on any or all of the defendants, the server shall also serve a copy of the return on the plaintiff's counsel, stating the reasons for the failure of service, within five (5) days therefrom. In such a case, or if the summons has been lost, the clerk, on demand of the plaintiff, may issue an alias summons.

[15] Rollo, p. 211.

[16] Id. at 219.

[17] 125 SCRA 522 (1983), cited in *Far Corporation vs. Francisco*, 146 SCRA 197 (1986).

[18] Id. at 527; also cited in *Far Corporation vs. Francisco*, *supra*.

[19] 401 SCRA 576 (2003)

[20] Id. at 581.

[21] Sec. 8, Rule 10, 1997 Revised Rules of Civil Procedure.

[22] *Vlason Enterprises Corporation vs. Court of Appeals*, 310 SCRA 26 (1999).

[23] Id. at 58.

[24] *Rollo*, p. 24.

[25] Id. at 25.

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