MILLEX CONSTRUCTION AND DEVELOPMENT CORPORATION, PETITIONER, VS. CITYSTATE INSURANCE CORPORATION, RESPONDENT.

G.R. NO. 149670. June 27, 2006

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari of the August 31, 2001 decision[1] of the Court of Appeals in CA-G.R. CV No. 62361 affirming the decision of the Regional Trial Court (RTC) of Makati, Branch 66, in Civil Case No. 97-2043.[2]

The facts are not disputed.

Respondent Citystate Insurance Corporation is a non-life domestic insurance corporation. In July 1996, one of its insured vehicles owned by one Restie Perez was hit by a truck owned by petitioner Millex Construction & Development Corporation. The insured vehicle sustained damages amounting to P251,135.86.

Respondent paid the insurance proceeds to Perez. The latter, in turn, executed a document releasing respondent from liability and subrogating it in his place.

Respondent then instituted an action for sum of money against petitioner in the RTC of Makati, Branch 66. Summons was served on petitioner through Ailyn Marasigan, secretary of the company.[3]

Because petitioner failed to file a responsive pleading, petitioner was declared in default on motion of respondent. Thereafter, the case was submitted for decision on the basis of the complaint and the evidence presented.

On January 14, 1999, the trial court rendered a decision holding petitioner liable to pay respondent P252,215.80 plus interest of 6% per annum from the date of filing of the complaint until fully paid. This decision was received by petitioner on February 3, 1999.

On February 12, 1999, petitioner filed a notice of appeal alleging that the trial court never acquired jurisdiction over it for lack of proper service of summons. (Incidentally, the docket fees were paid only on March 2, 1999.)

On August 31, 2001, the Court of Appeals affirmed the trial court's decision in toto. It added that the petition should have been dismissed outright for petitioner's failure to pay the docket fees on time. The motion for reconsideration was denied. Hence, this petition.

Petitioner's main contention is that the service of summons on Ailyn Marasigan, as secretary of the company, was not valid.

The resolution of this issue calls for a study of facts, which is not within the scope of our review. As a rule, where the factual findings of the trial court are affirmed in toto by the Court of Appeals, we no longer disturb such findings.[4]

The process server's return showed that summons was served on Ailyn Marasigan, secretary of the company.[5] There being no refutation that Ailyn Marasigan's designation as secretary of the company was not the "corporate secretary" required by law,[6] the trial court and the Court of Appeals correctly ruled that there was a valid service of summons on petitioner.

Now, petitioner wants us to overturn the above finding by presenting an affidavit[7] of its personnel manager attesting that Ailyn Marasigan was not its corporate secretary but only a secretary of its administrative department. However, it is not our duty to accept additional evidence intended to disprove an established fact. Petitioner had the opportunity in the trial court and the Court of Appeals to prove that Ailyn Marasigan was not its corporate secretary. Its neglect to present evidence at the opportune time cannot be countenanced.

Petitioner even faults the Court of Appeals for not noticing that there was no proper service of summons. But the Court of Appeals cannot engage in guesswork. Courts are not expected to read what goes on in the minds of the litigant.[8] It was incumbent on petitioner to disprove the finding of both the trial court and the Court of Appeals that there was a valid service of summons. Having failed to do so, it cannot now ask this Court to come to its aid. As aptly held by the Court of Appeals:

> On the issue of invalid service of summons to a mere secretary, We have meticulously perused over appellant's brief and all that it can argue about is that the return says summons was served on Ailyn Marasigan, secretary, without even claiming or clarifying that Ailyn Marasigan is just a mere secretary of a department or an officer of the corporation. The appellant, wittingly or unwittingly, kept this in silence.
>
> Nevertheless, what appears on the return is that Ailyn Marasigan is the secretary of the corporation. As such, far from being irregular, service of summons upon the corporation, through her, as secretary of the corporation, is no other than service of summons to the corporate secretary as mentioned in Section 11 of Rule 14 of the 1997 Rules. We cannot see the difference between the two. On this score, appellantï¿½s contention must fall.[9]

In sum, we affirm that there was a valid service of summons on petitioner.

WHEREFORE, the petition is hereby DENIED for lack of merit.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Conrado M.Vasquez, Jr. and concurred in by Associate Justices Martin S. Villarama, Jr. and Eliezer R. de los Santos of the Special Twelfth Division of the Court of Appeals; rollo, pp. 15-23.

[2] Entitled, Citystate Insurance Corporation v. Millex Construction & Development Corporation.

[3] Rollo, p. 20.

[4] Local Superior of the Servants of Charity, Inc. v. Jody King Construction and Development Corporation, G.R. No. 141715, 12 October 2005.

[5] As stated in the August 31, 2001 decision of the Court of Appeals, rollo, p. 20.

[6] Rule 14, Section 11 of the Rules of Court reads: "When the defendant is a corporation, partnership or

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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."

[7] Rollo, p. 24.

[8] Manzano v. Perez, Sr., 414 Phil. 728 (2001).

[9] Rollo, p. 20.

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