

ORION SECURITY CORPORATION, PETITIONER, VS. KALFAM ENTERPRISES, INC., RESPONDENT.

G.R. NO. 163287. April 27, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari are the Decision[1] dated February 17, 2004 and Resolution[2] dated April 22, 2004 of the Court of Appeals in CA-G.R. CV No. 70565, which reversed the Decision[3] dated March 15, 2000 of the Regional Trial Court of Quezon City, Branch 215, in Civil Case No. Q-97-32024.

The facts, borne by the records, are as follows:

Petitioner Orion Security Corporation is a domestic private corporation engaged in the business of providing security services. One of its clients is respondent Kalfam Enterprises, Inc.

Respondent was not able to pay petitioner for services rendered. Petitioner thus filed a complaint[4] against respondent for collection of sum of money. The sheriff tried to serve the summons and a copy of the complaint on the secretary of respondent's manager. However, respondent's representatives allegedly refused to acknowledge their receipt. The summons and the copy of the complaint were left at respondent's office.[5]

When respondent failed to file an Answer, petitioner filed a motion to declare respondent in default.[6] The trial court, however, denied the motion on the ground that there was no proper service of summons on respondent.[7]

Petitioner then filed a motion for alias summons, which the trial court granted.[8] The process server again left the summons and a copy of the complaint at respondent's office through respondent's security guard, who allegedly refused to acknowledge their receipt.[9]

Again, respondent failed to file an Answer. On motion[10] of petitioner, respondent was declared in default.[11] Thereafter, petitioner was allowed to adduce evidence ex parte.

Respondent filed a motion for reconsideration[12] of the resolution declaring it in default. Respondent alleged the trial court did not acquire jurisdiction over its person due to invalid service of summons. The trial court denied the motion for reconsideration.[13]

On March 15, 2000, the trial court rendered a default judgment, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff Orion Security Corporation and against defendant Kalfam Enterprises, Inc., ordering said defendant to pay plaintiff the amounts as follows:

a) FIVE HUNDRED THIRTEEN THOUSAND EIGHT HUNDRED THIRTY NINE PESOS AND TWENTY SIX CENTAVOS (P513,839.26), Philippine Currency, as the total amount of the balance due to the plaintiff, plus interest thereon at the rate of twelve percent (12%) per annum, computed from August 29, 1997, the date of the filing of this case until said obligation is fully paid;

b) FIFTY ONE THOUSAND THREE HUNDRED EIGHTY THREE PESOS AND NINETY TWO CENTAVOS (P51,383.92), Philippine Currency, which is ten percent (10%) of the outstanding obligation, as attorney's fees;

c) FIVE THOUSAND PESOS (P5,000.00), Philippine Currency, as litigation expenses; and THREE THOUSAND FIVE HUNDRED SIXTY THREE PESOS AND TWENTY FIVE CENTAVOS (P3,563.25) for the costs of suit.

SO ORDERED.[14]

On appeal, the Court of Appeals held that summons was not validly served on respondent, decreeing thus:

WHEREFORE, in view of the foregoing, the appealed decision is REVERSED and SET ASIDE. The case is hereby REMANDED to the trial court for further proceedings upon valid service of summons to the parties concerned.

SO ORDERED.[15]

Petitioner's motion for reconsideration of the Court of Appeals' decision was denied. Hence, the instant petition raising the following as issues:

- WHETHER OR NOT THE HONORABLE COURT OF APPEALS' DECISION DATED FEBRUARY 17, 2004 AND ITS RESOLUTION DATED APRIL 22, 2004 ARE NULL AND VOID FOR FAILURE TO COMPLY WITH SEC. 14, ART. VIII OF THE 1987 CONSTITUTION;

- WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT THE TRIAL COURT HAS IN FACT ACQUIRED JURISDICTION OVER THE PERSON OF THE RESPONDENT DUE TO THE LATTER'S VOLUNTARY APPEARANCE IN THE PROCEEDINGS THEREIN;

- WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE SUBSTITUTED SERVICE OF SUMMONS EFFECTED UPON THE SECURITY GUARD OF THE RESPONDENT SHOULD BE DEEMED SUBSTANTIAL COMPLIANCE WITH THE RULE ON SERVICE OF SUMMONS, IN VIEW OF THE EXCEPTIONAL CIRCUMSTANCES ATTENDANT IN THE PRESENT CASE.[16]

Simply put, the sole issue is whether the trial court acquired jurisdiction over respondent either by (1) valid substituted service of summons on respondent; or (2) respondent's voluntary appearance in the trial court and submission to its authority.

Petitioner contends that the Court of Appeals completely brushed aside respondent's voluntary appearance in the proceedings of the trial court. According to petitioner, the trial court acquired jurisdiction over respondent due to the latter's voluntary appearance in the proceedings before the said court. Petitioner insists substituted service of summons on respondent's security guard is substantial compliance with the rule on service of summons, in view of the exceptional circumstances in the present case.

Respondent, however, counters that the special appearance of its counsel does not constitute voluntary appearance. Respondent maintains that its filing of an opposition to petitioner's motion to declare respondent in default and other subsequent pleadings questioning the trial court's jurisdiction over it does not amount to voluntary appearance. Respondent stresses it was not properly served with summons via substituted service since the security guard on whom it was purportedly served was not the competent person contemplated by Section 7, Rule 14 of the Rules of Court.

We find the petition without merit.

Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint. On the other hand, jurisdiction over the defendants in a civil case is acquired either through the service of summons upon them or through their voluntary appearance in court and their submission to its authority.[17]

In case of domestic private juridical entities such as respondent in the instant case, Section 11 of Rule 14 states:

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.

As a rule, summons should be personally served on the defendant. It is only when summons cannot be served personally within a reasonable period of time that substituted service may be resorted to. In this connection, Section 7 of Rule 14 provides:

SEC. 7. Substituted service. — If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, 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.

In this case, records show that respondent's president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel never received the summons against respondent, either in person or by substituted service.

Note that in case of substituted service, there should be a report indicating that the person who received the summons in the defendant's behalf was one with whom the defendant had a relation of confidence ensuring that the latter would actually receive the summons.[18] Here, petitioner failed to show that the security guard who received the summons in respondent's behalf shared such relation of confidence that respondent would surely receive the summons. Hence, we are unable to accept petitioner's contention that service on the security guard constituted substantial compliance with the requirements of substituted service.

Neither did the trial court acquire jurisdiction over respondent by the latter's voluntary appearance in court proceedings. Note that a party who makes a special appearance in court challenging the jurisdiction of said court based on the ground of invalid service of summons is not deemed to have submitted himself to the jurisdiction of the court.[19] In this case, records show that respondent, in its special appearance, precisely questioned the jurisdiction of the trial court on the ground of invalid service of summons. Thus, it cannot be deemed to have submitted to said court's authority.

Since the trial court never acquired jurisdiction over respondent, either by valid substituted service of summons or by respondent's voluntary appearance in court and submission to its authority, respondent cannot be bound by the trial court's judgment ordering it to pay petitioner a sum of money.

WHEREFORE, the petition is DENIED. The assailed Decision dated February 17, 2004 and Resolution dated April 22, 2004 of the Court of Appeals in CA-G.R. CV No. 70565 are AFFIRMED. Let the case be REMANDED to the trial court for further proceedings upon valid service of summons to respondent.

No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

- [1] Rollo, pp. 58-63.
- [2] Id. at 86.
- [3] Id. at 88-91.
- [4] Records, pp. 2-5.
- [5] Id. at 41.
- [6] Id. at 42-43.
- [7] Id. at 53.
- [8] Id. at 54.
- [9] Id. at 58.
- [10] Id. at 62-66.
- [11] Id. at 84-85.
- [12] Id. at 139-145.
- [13] Id. at 167-168.
- [14] Id. at 181.
- [15] Rollo, p. 63.
- [16] Id. at 177.
- [17] *Casimina v. Legaspi*, G.R. No. 147530, June 29, 2005, 462 SCRA 171, 177.
- [18] Id. at 179.
- [19] *United Coconut Planters Bank v. Ongpin*, G.R. No. 146593, October 26, 2001, 368 SCRA 464, 470.

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