

REMELITA M. ROBINSON, PETITIONER, VS. CELITA B. MIRALLES, RESPONDENT

G.R. NO. 163584. December 12, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is the instant petition for review on certiorari assailing the Resolutions dated February 11[1] and May 11, 2004[2] of the Regional Trial Court (RTC), Branch 274, Parañaque City, in Civil Case No. 00-0372.

On August 25, 2000, Celita Miralles, respondent, filed with the said court a complaint for sum of money against Remelita Robinson, petitioner, docketed as Civil Case No. 00-0372. Respondent alleged that petitioner borrowed from her US\$20,054.00 as shown by a Memorandum of Agreement they both executed on January 12, 2000.

Summons was served on petitioner at her given address. However, per return of service of Sheriff Maximo Potente dated March 5, 2001, petitioner no longer resides at such address.

On July 20, 2001, the trial court issued an alias summons to be served at No. 19 Baguio St., Alabang Hills, Muntinlupa City, petitioner's new address.

Again, the summons could not be served on petitioner. Sheriff Potente explained that:

The Security Guard assigned at the gate of Alabang Hills refused to let me go inside the subdivision so that I could effect the service of the summons to the defendant in this case. The security guard alleged that the defendant had given them instructions not to let anybody proceed to her house if she is not around. I explained to the Security Guard that I am a sheriff serving the summons to the defendant, and if the defendant is not around, summons can be received by any person of suitable age and discretion living in the same house. Despite of all the explanation, the security guard by the name of A.H. Geroche still refused to let me go inside the subdivision and served (sic) the summons to the defendant. The same thing happened when I attempted to serve the summons previously.

Therefore, the summons was served by leaving a copy thereof together with the copy of the complaint to the security guard by the name of A.H. Geroche, who refused to affix his signature on the original copy thereof, so he will be the one to give the same to the defendant.

Eventually, respondent filed a motion to declare petitioner in default for her failure to file an answer seasonably despite service of summons.

On February 28, 2003, the trial court granted respondent's motion declaring petitioner in default and allowing respondent to present her evidence ex parte.

On June 20, 2003, the trial court issued an Order, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against defendant ordering the defendant to pay the plaintiff as follows

- The sum of US\$20,054.00 as the unpaid obligation, plus the stipulated interest of 3% a month from May 2000 (date of default) until fully paid;
- Php100,000.00 for moral damages;
- Php50,000.00 plus Php1,500.00 per appearance as attorney's fees;
- Costs of suit.

SO ORDERED.

A copy of the Order was sent to petitioner by registered mail at her new address.

Upon respondent's motion, the trial court, on September 8, 2003, issued a writ of execution.

On September 26, 2003, petitioner filed with the trial court a petition for relief from the judgment by default. She claimed that summons was improperly served upon her, thus, the trial court never acquired jurisdiction over her and that all its proceedings are void.

On February 11, 2004, the trial court issued a Resolution denying the petition for relief. Petitioner filed a motion for reconsideration, but it was denied by the trial court in a Resolution dated May 11, 2004.

Hence, the instant recourse.

The sole issue for our resolution is whether the trial court correctly ruled that a substituted service of summons upon petitioner has been validly effected.

Summons is a writ by which the defendant is notified of the action brought against him or her.[3] In a civil action, service of summons is the means by which the court acquires jurisdiction over the person of the defendant.[4] Any judgment without such service, in the absence of a valid waiver, is null and void.[5] Where the action is in personam and the defendant is in the Philippines, the service of summons may be made through personal or substituted service in the manner provided for in Sections 6 and 7, Rule 14 of the 1997 Rules of Procedure, as amended,[6] thus:

SEC. 6. Service in person on defendant. – Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or if he refuses to receive and sign for it, by tendering it to him.

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 the defendant's office or regular place of business with some competent person in charge thereof.

Under our procedural rules, personal service is generally preferred over substituted service, the latter mode of service being a method extraordinary in character.[7] For substituted service to be justified, the following circumstances must be clearly established: (a) personal service of summons within a reasonable time was impossible; (b) efforts were exerted to locate the party; and (c) the summons was served upon a person of sufficient age and discretion residing at the party's residence or upon a competent person in charge of the party's office or place of business.[8] Failure to do so would invalidate all subsequent proceedings on jurisdictional grounds.[9]

Petitioner contends that the service of summons upon the subdivision security guard is not in compliance with Section 7, Rule 14 since he is not related to her or staying at her residence. Moreover, he is not duly authorized to receive summons for the residents of the village. Hence, the substituted service of summons is not valid and that the trial court never acquired jurisdiction over her person.

We have ruled that the statutory requirements of substituted service must be followed strictly, faithfully, and fully and any substituted service other than that authorized by the Rules is considered ineffective.[10]However, we frown upon an overly strict application of the Rules. It is the spirit, rather than the letter of the procedural rules, that governs.

In his Return, Sheriff Potente declared that he was refused entry by the security guard in Alabang Hills twice. The latter informed him that petitioner prohibits him from allowing anybody to proceed to her residence whenever she is out. Obviously, it was impossible for the sheriff to effect personal or substituted service of summons upon petitioner. We note that she failed to controvert the sheriff's declaration. Nor did she deny having received the summons through the security guard.

Considering her strict instruction to the security guard, she must bear its consequences. Thus, we agree with the trial court that summons has been properly served upon petitioner and that it has acquired jurisdiction over her.

WHEREFORE, we DENY the petition and we AFFIRM the assailed Orders of the RTC, Branch 274, Parañaque City, in Civil Case No. 00-0372. Costs against petitioner.

SO ORDERED.

Puno, C.J., Sandival-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

[1] Rollo, p. 24. Per Judge Fortunito L. Madrona.

[2] Id., p. 25.

[3] Romualdez-Licaros v. Licaros, G.R. No. 150656, April 29, 2003, 401 SCRA 762, 769.

[4] Gomez v. Court of Appeals, G.R. No. 127692, March 10, 2004, 425 SCRA 98, 102, citing Licaros v. Licaros, id.

[5] Umandap v. Sabio, Jr., G.R. No. 140244, August 29, 2000, 339 SCRA 243, 247, citing Venturanza v. Court of Appeals, 156 SCRA 305 (1987).

[6] Osminal v. Castillo, G.R. No. 152776, October 8, 2003, 413 SCRA 189, 196.

[7] Ancheta v. Ancheta, G.R. No. 145370, March 4, 2004, 424 SCRA 725, 736, citing Keister v. Navarro, 77 SCRA 209 (1977).

[8]Umandap v. Sabio, Jr., supra, 249, citing Laus v. Court of Appeals, 219 SCRA 688 (1993).

[9] Samartino v. Ruiz, G.R. No. 131482, July 3, 2002, 383 SCRA 664, 670, citing Madrigal v. Court of Appeals, 319 SCRA 331 (1999).

[10] Paluwagan ng Bayan Savings Bank v. King, G.R. No. 78252, April 12, 1989, 172 SCRA 60, citing Keister v. Navarro, supra, Arevalo v. Quilatan, 116 SCRA 700 (1982).

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