

**ATIKO TRANS, INC. AND CHENG LIE NAVIGATION CO., LTD.,
PETITIONERS, VS. PRUDENTIAL GUARANTEE AND ASSURANCE, INC.,
RESPONDENT.**

G.R. No. 167545. August 17, 2011

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167545/>

DEL CASTILLO, J.:

Where service of summons upon the defendant principal is coursed thru its co-defendant agent, and the latter happens to be a domestic corporation, the rules on service of summons upon a domestic private juridical entity[1] must be strictly complied with. Otherwise, the court cannot be said to have acquired jurisdiction over the person of both defendants. And insofar as the principal is concerned, such jurisdictional flaw cannot be cured by the agent's subsequent voluntary appearance.

This Petition for Review on Certiorari assails the December 10, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 82547 which affirmed the April 8, 2003 Decision[3] of the Regional Trial Court (RTC), Branch 150, Makati City. Said Decision of the RTC affirmed the August 6, 2002 Decision[4] of the Metropolitan Trial Court (MeTC), Branch 63, Makati City, which disposed as follows:

WHEREFORE, judgment is rendered declaring defendants Cheng Lie Navigation Co., Ltd. and Atiko Trans, Inc. solidarily liable to pay plaintiff Prudential Guarantee & Assurance, Inc. the following amounts:

- P205,220.97 as actual damages with interest of 1% per month from 14 December 1999 until full payment;
- P10,000.00 as Attorney's fees; and
- Costs of suit.

SO ORDERED.[5]

Likewise assailed is the CA's Resolution[6] dated March 16, 2005 which denied the Motion for Reconsideration of the said December 10, 2004 Decision.

Factual Antecedents

On December 11, 1998, 40 coils of electrolytic tinplates were loaded on board M/S Katjana in Kaohsiung, Taiwan for shipment to Manila. The shipment was covered by Bill of Lading No. KNMNI-15126[7] issued by petitioner Cheng Lie Navigation Co., Ltd. (Cheng Lie) with Oriental Tin Can & Metal Sheet Manufacturing Co., Inc. (Oriental) as the notify party. The cargoes were insured against all risks per Marine Insurance Policy No. 20RN-18749/99 issued by respondent Prudential Guarantee and Assurance, Inc. (Prudential).

On December 14, 1998, M/S Katjana arrived in the port of Manila. Upon discharge of the cargoes, it was found that one of the tinplates was damaged, crumpled and dented on the edges. The sea van in which it was kept during the voyage was also damaged, presumably while still on board the vessel and during the course of the voyage.

Oriental then filed its claim against the policy. Satisfied that Oriental's claim was compensable, Prudential paid Oriental P205,220.97 representing the amount of losses it suffered due to the damaged cargo.

Proceedings before the Metropolitan Trial Court

On December 14, 1999, Prudential filed with the MeTC of Makati City a Complaint[8] for sum of money against Cheng Lie and Atiko Trans, Inc. (Atiko). In addition to the above undisputed facts, Prudential alleged that:

1. Plaintiff (Prudential) is a domestic insurance corporation duly organized and existing under the laws of the Philippines with office address at Coyiuto House, 119 Carlos Palanca[, Jr. St., Legaspi Village, Makati City;
2. Defendant Cheng Lie Navigation Co. Ltd., is [a] foreign shipping company doing business in the Philippines [thru] its duly authorized shipagent defendant Atiko Trans Inc. which is a domestic corporation duly established and created under the laws of the Philippines with office address at 7[th] Floor, Victoria Bldg., United Nation[s] Ave., Ermita, Manila, where both defendants may be served with summons and other court processes;
3. At all times material to the cause of action of this complaint, plaintiff was and still is engaged in, among others, marine insurance business; Whereas Defendant Cheng Lie Navigation Co. Ltd. was and still is engaged in, among others, shipping, transportation and freight/cargo forwarding business, and as such, owned, operated and/or chartered the ocean going vessel M/S "Katjana" as common carrier to and from any Philippine [port] in international trade [thru] its duly authorized shipagent defendant Atiko Trans Inc. (Both defendants are hereinafter referred to as the "CARRIER");

x x x x

9. Plaintiff, as cargo-insurer and upon finding that the consignee's insurance claim was in order and compensable, paid the latter's claim in the amount of P205,220.97 under and by virtue of the aforesaid insurance policy, thereby subrogating herein plaintiff to all the rights and causes of action appertaining to the consignee against the defendants;[9]

On March 20, 2000, Prudential filed a Motion to Declare Defendant in Default,[10] alleging among others that on March 1, 2000 a copy of the summons was served upon petitioners thru cashier Cristina Figueroa and that despite receipt thereof petitioners failed to file any responsive pleading. Acting on the motion, the MeTC issued an Order[11] declaring Cheng Lie and Atiko in default and allowing Prudential to present its evidence ex-parte.

On August 6, 2002, the MeTC rendered its judgment by default. Atiko then filed a Notice of Appeal[12] dated November 4, 2002.

Proceedings before the Regional Trial Court and the Court of Appeals

In its Memorandum of Appeal,[13] Atiko argued that Prudential failed to prove the material allegations of the complaint. Atiko asserted that Prudential failed to prove by preponderance of evidence that it is a domestic corporation with legal personality to file an action; that Cheng Lie is a private foreign juridical entity operating its shipping business in the Philippines thru Atiko as its shipagent; that Cheng Lie is a common carrier, which owns and operates M/S Katjana; that Prudential was subrogated to the rights of Oriental; and, that Atiko can be held solidarily liable with Cheng Lie.

Although assisted by the same counsel, Cheng Lie filed its own Memorandum of Appeal[14] maintaining that the MeTC never acquired jurisdiction over its person.

On April 8, 2003, the RTC rendered its Decision dismissing the appeal and affirming the Decision of the MeTC. Atiko and Cheng Lie challenged the RTC Decision before the CA via a Petition for Review[15] under Rule 42 of

the Rules of Court but the appellate court affirmed the RTC's Decision.

Hence, this petition.

Issues

In their Memorandum,[16] petitioners raised the following issues:

- WHETHER X X X THE DECISION OF MAKATI [MeTC] WHICH WAS AFFIRMED BY MAKATI RTC AND THE COURT OF APPEALS IS NULL AND VOID FOR FAILURE TO ACQUIRE JURISDICTION OVER THE PERSONS OF THE PETITIONERS-DEFENDANTS CONSIDERING THAT THE SUMMONS WERE NOT PROPERLY SERVED ON THEM AS REQUIRED BY RULE 14 OF THE RULES OF COURT.

- WHETHER X X X THE RESPONDENT-PLAINTIFF IS REQUIRED TO PROVE THE MATERIAL ALLEGATIONS IN THE COMPLAINT EVEN IN DEFAULT JUDGMENT OR WHETHER OR NOT IN DEFAULT JUDGMENT, ALL ALLEGATIONS IN THE COMPLAINT ARE DEEMED CONTROVERTED, HENCE, MUST BE PROVED BY COMPETENT EVIDENCE.

2.1. WHETHER X X X RESPONDENT-PLAINTIFF IS OBLIGED TO PROVE ITS LEGAL PERSONALITY TO SUE EVEN IN DEFAULT JUDGMENT.

2.2. WHETHER X X X RESPONDENT-PLAINTIFF IS OBLIGED TO PROVE THAT PETITIONER-DEFENDANT ATIKO IS THE SHIPAGENT OF PETITIONER-DEFENDANT CHENG LIE EVEN IN DEFAULT JUDGMENT.

2.3. WHETHER X X X THE TESTIMONIES OF THE WITNESSES AND THE DOCUMENTARY EXHIBITS CAN BE CONSIDERED FOR PURPOSES OTHER THAN THE PURPOSE FOR WHICH THEY WERE OFFERED.

2.4. WHETHER X X X A MOTION TO DECLARE DEFENDANT IN DEFAULT ADDRESSED AND SENT TO ONLY ONE OF THE DEFENDANTS WOULD BIND THE OTHER DEFENDANT TO WHOM THE MOTION WAS NOT ADDRESSED AND NOT SENT.[17]

Our Ruling

The petition is partly meritorious. We shall first tackle the factual matters involved in this case, then proceed with the jurisdictional issues raised.

Petitioners raised factual matters which are not the proper subject of this appeal.

Petitioners contend that the lower courts grievously erred in granting the complaint because, even if they were declared in default, the respondent still has the burden of proving the material allegations in the complaint by preponderance of evidence. Petitioners further argue that respondent miserably failed to discharge this burden because it failed to present sufficient proof that it is a domestic corporation. Hence, respondent could not possibly maintain the present action because only natural or juridical persons or entities authorized by law can be parties to a civil action. Petitioners also claim that respondent failed to present competent proof that Cheng Lie is a foreign shipping company doing business in the Philippines thru its duly authorized shipagent Atiko. Lastly, petitioners assert that respondent failed to prove that Cheng Lie is a common carrier which owned, operated and/or chartered M/S Katjana thru its duly authorized shipagent Atiko. Petitioners emphasize that there is no proof, testimonial or otherwise, which would support the material allegations of the complaint. They also insist that respondent's witnesses do not have personal knowledge of the facts on which they were examined.

Respondent, for its part, assails the propriety of the remedy taken by the petitioners. It posits that petitioners

advanced factual matters which are not the proper subject of a petition for review on certiorari. Besides, the lower courts consistently held that the allegations in respondent's complaint are supported by sufficient evidence.

We agree with respondent.

A cursory reading of the issues raised readily reveals that they involve factual matters which are not within the province of this Court to look into. Well-settled is the rule that in petitions for review on certiorari under Rule 45, only questions of law can be raised. While there are recognized exceptions to this rule,[18] none is present in this case. "[A]s a matter of x x x procedure, [this] Court defers and accords finality to the factual findings of trial courts, [especially] when such findings were [affirmed by the RTC and the CA. These] factual determination[s], as a matter of long and sound appellate practice, deserve great weight and shall not be disturbed on appeal x x x. [I]t is not the function of the Court to analyze and weigh all over again the evidence or premises supportive of the factual holding of the lower courts." [19]

MeTC properly acquired jurisdiction over the person of Atiko.

Petitioners also argue that the MeTC did not acquire jurisdiction over the person of Atiko as the summons was received by its cashier, Cristina Figueroa. They maintain that under Section 11, Rule 14 of the Rules of Court, when the defendant is a domestic corporation like Atiko, summons may be served only upon its president, general manager, corporate secretary, treasurer or in-house counsel.

We are not persuaded. True, when the defendant is a domestic corporation, service of summons may be made only upon the persons enumerated in Section 11, Rule 14 of the Rules of Court.[20] However, jurisdiction over the person of the defendant can be acquired not only by proper service of summons but also by defendant's voluntary appearance without expressly objecting to the court's jurisdiction, as embodied in Section 20, Rule 14 of the Rules of Court, viz:

SEC. 20. Voluntary appearance. - The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance.

In the case at bench, when Atiko filed its Notice of Appeal,[21] Memorandum of Appeal,[22] Motion for Reconsideration[23] of the April 8, 2003 Decision of the RTC, and Petition for Review,[24] it never questioned the jurisdiction of the MeTC over its person. The filing of these pleadings seeking affirmative relief amounted to voluntary appearance and, hence, rendered the alleged lack of jurisdiction moot. In *Palma v. Galvez*,[25] this Court reiterated the oft-repeated rule that "the filing of motions seeking affirmative relief, such as, to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, are considered voluntary submission to the jurisdiction of the court."

Moreover, petitioners' contention is a mere afterthought. It was only in their Memorandum[26] filed with this Court where they claimed, for the first time, that Atiko was not properly served with summons. In *La Naval Drug Corporation v. Court of Appeals*,[27] it was held that the issue of jurisdiction over the person of the defendant must be seasonably raised. Failing to do so, a party who invoked the jurisdiction of a court to secure an affirmative relief cannot be allowed to disavow such jurisdiction after unsuccessfully trying to obtain such relief.[28]

It may not be amiss to state too that in our February 13, 2006 Resolution,[29] we reminded the parties that they are not allowed to interject new issues in their memorandum.

MeTC did not acquire jurisdiction over

the person of Cheng Lie.

Petitioners likewise challenge the validity of the service of summons upon Cheng Lie, thru Atiko. They claim that when the defendant is a foreign private juridical entity which has transacted business in the Philippines, service of summons may be made, among others, upon its resident agent. In this case, however, there is no proof that Atiko is the local agent of Cheng Lie.

On this score, we find for the petitioners. Before it was amended by A.M. No. 11-3-6-SC,[30] Section 12 of Rule 14 of the Rules of Court reads:

SEC. 12. Service upon foreign private juridical entity. - When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.

Elucidating on the above provision of the Rules of Court, this Court declared in *Pioneer International, Ltd. v. Guadiz, Jr.*[31] that when the defendant is a foreign juridical entity, service of summons may be made upon:

- Its resident agent designated in accordance with law for that purpose;
- The government official designated by law to receive summons if the corporation does not have a resident agent; or,
- Any of the corporation's officers or agents within the Philippines.

In the case at bench, no summons was served upon Cheng Lie in any manner prescribed above. It should be recalled that Atiko was not properly served with summons as the person who received it on behalf of Atiko, cashier Cristina Figueroa, is not one of the corporate officers enumerated in Section 11 of Rule 14 of the Rules of Court. The MeTC acquired jurisdiction over the person of Atiko not thru valid service of summons but by the latter's voluntary appearance. Thus, there being no proper service of summons upon Atiko to speak of, it follows that the MeTC never acquired jurisdiction over the person of Cheng Lie. To rule otherwise would create an absurd situation where service of summons is valid upon the purported principal but not on the latter's co-defendant cum putative agent despite the fact that service was coursed thru said agent. Indeed, in order for the court to acquire jurisdiction over the person of a defendant foreign private juridical entity under Section 12, Rule 14 of the Rules of Court, there must be prior valid service of summons upon the agent of such defendant.

Also, the records of this case is bereft of any showing that cashier Cristina Figueroa is a government official designated by law to receive summons on behalf of Cheng Lie or that she is an officer or agent of Cheng Lie within the Philippines. Hence, her receipt of summons bears no significance insofar as Cheng Lie is concerned. At this point, we emphasize that the requirements of the rule on summons must be strictly followed,[32] lest we ride roughshod on defendant's right to due process.[33]

With regard to Cheng Lie's filing of numerous pleadings, the same cannot be considered as voluntary appearance. Unlike Atiko, Cheng Lie never sought affirmative relief other than the dismissal of the complaint on the ground of lack of jurisdiction over its person. From the very beginning, it has consistently questioned the validity of the service of summons and the jurisdiction of the MeTC over its person.

It does not escape our attention though that Cheng Lie's pleadings do not indicate that the same were filed by way of special appearance. But these, to our mind, are mere inaccuracies in the title of the pleadings. What is important are the allegations contained therein which consistently resisted the jurisdiction of the trial court. Thus, Cheng Lie cannot be considered to have submitted itself to the jurisdiction of the courts.[34]

In fine, since the MeTC never acquired jurisdiction over the person of Cheng Lie, its decision insofar as Cheng Lie is concerned is void.[35]

Cheng Lie was improperly declared in default.

Applying the above disquisition, the MeTC likewise erred in declaring Cheng Lie in default. Settled is the rule that a defendant cannot be declared in default unless such declaration is preceded by a valid service of summons.[36]

WHEREFORE, the instant petition is **PARTIALLY GRANTED**. The assailed December 10, 2004 Decision of the Court of Appeals in CA-G.R. SP No. 82547 is **AFFIRMED** with the **MODIFICATION** that the judgment insofar as Cheng Lie Navigation Co., Ltd. is concerned is declared **VOID** for failure to acquire jurisdiction over its person as there was improper service of summons.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Rules of Court, Rule 14, Section 11. It reads:

Section 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.

[2] CA rollo, pp. 160-181; penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Remedios A. Salazar-Fernando and Danilo B. Pine.

[3] Id. at 35-39; penned by Judge Zeus C. Abrogar.

[4] Id. at 49-50; penned by Judge Evelyn S. Arcaya-Chua.

[5] Id. at 50.

[6] Id. at 205-207.

[7] Id. at 46.

[8] Id. at 42-45. Docketed as Civil Case No. 68976.

[9] Id. at 42-44.

[10] Id. at 46-47.

[11] Id. at 48; penned by Judge Socorro B. Inting.

[12] Id. at 51.

[13] Id. at 54-65.

[14] Id. at 75-83.

[15] Id. at 2-34.

[16] Rollo, pp. 204-225.

[17] Id. at 207.

[18] "[S]uch as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the [Court of Appeals] are contrary to those of the trial court; (9) the [Court of Appeals] manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the [Court of Appeals] are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties." (International Container Terminal Services, Inc. v. FGU Insurance Corporation, G.R. No. 161539, June 27, 2008, 556 SCRA 194, 199.)

[19] Tapuroc v. Loquellano Vda. de Mende, G.R. No. 152007, January 22, 2007, 512 SCRA 97, 105-106.

[20] Supra note 1.

[21] CA rollo, p. 51.

[22] Id. at 54-65.

[23] Id. at 98-108.

[24] Id. at 2-34.

[25] G.R. No. 165273, March 10, 2010, 615 SCRA 86, 99.

[26] Rollo, pp. 204-225.

[27] G.R. No. 103200, August 31, 1994, 236 SCRA 78, 91.

[28] Tijam v. Sibonghanoy, 131 Phil. 556, 564 (1968).

[29] Rollo, pp. 202-203.

[30] AMENDMENT OF SECTION 12, RULE 14 OF THE RULES OF COURT ON SERVICE UPON FOREIGN PRIVATE JURIDICAL ENTITY. As amended, said provision of the Rules of Court now reads:

SEC. 12. Service upon foreign private juridical entity. -- When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.

If the foreign private juridical entity is not registered in the Philippines or has no resident agent, service may, with leave of court, be effected out of the Philippines through any of the following means:

a) By personal service coursed through the appropriate court in the foreign country with the assistance of the Department of Foreign Affairs;

b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by-registered mail at the last known address of the defendant;

c) By facsimile or any recognized electronic means that could generate proof of service; or

d) By such other means as the court may in its discretion direct.

[31] G.R. No. 156848, October 11, 2007, 535 SCRA 584, 601.

[32] Id. at 600.

[33] Pascual v. Pascual, G.R. No. 171916, December 4, 2009, 607 SCRA 288, 291.

[34] See also the similar case of Hongkong and Shanghai Banking Corporation Limited v. Catalan, 483 Phil. 525 (2004).

[35] Pascual v. Pascual, *supra* at 306.

[36] Vlasov Enterprises Corporation v. Court of Appeals, 369 Phil. 269, 307 (1999).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.