

**DOLE PHILIPPINES, INC. (TROPIFRESH DIVISION), PETITIONER, VS.
HON. REINATO G. QUILALA IN HIS CAPACITY AS PAIRING JUDGE OF
BRANCH 150, RTC-MAKATI CITY, AND ALL SEASON FARM, CORP....**

G.R. No. 168723. July 09, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review assails the Decision[1] dated May 20, 2005 of the Court of Appeals in CA-G.R. SP No. 87723 and its Resolution[2] dated June 28, 2005, denying the motion for reconsideration. The appellate court had affirmed the Order[3] dated February 6, 2004 of the Regional Trial Court (RTC) of Makati City, Branch 150, in Civil Case No. 03-093 and its Order[4] dated September 16, 2004 denying the motion for partial reconsideration.

The factual antecedents of this case are as follows.

In a complaint filed with the RTC of Makati City, presided over by Pairing Judge Reinato Quilala, private respondent All Season Farm Corporation ("All Season") sought the recovery of a sum of money, accounting and damages from petitioner Dole Philippines, Inc. (Tropifresh Division) ("Dole") and several of its officers. According to Dole, an alias summons was served upon it through a certain Marifa Dela Cruz, a legal assistant employed by Dole Pacific General Services, Ltd., which is an entity separate from Dole.

On May 20, 2003, Dole filed a motion to dismiss the complaint on the following grounds: (a) the RTC lacked jurisdiction over the person of Dole due to improper service of summons; (b) the complaint failed to state a cause of action; (c) All Season was not the real party in interest; and (d) the officers of Dole cannot be sued in their personal capacities for alleged acts performed in their official capacities as corporate officers of Dole.[5] In its Order dated February 6, 2004, the RTC denied said motion. Dole moved for partial reconsideration raising the same issues but its motion was denied.

Thereafter, Dole filed a petition for certiorari with the Court of Appeals contending that the alias summons was not properly served. The appellate court, however, ruled otherwise. It reasoned that Dole's president had known of the service of the alias summons although he did not personally receive and sign it. It also held that in today's corporate setup, documents addressed to corporate officers are received in their behalf by their staff.[6] Dole sought reconsideration, but its motion was likewise denied.

Hence, this petition where petitioner raises the lone issue:

WHETHER OR NOT THE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT ALLOWED SUBSTITUTED SERVICE ON A PRIVATE CORPORATION WHEN IT HELD THAT DOLE WAS VALIDLY SERVED WITH SUMMONS IN SPITE OF THE FACT THAT SUMMONS WAS NOT SERVED ON ITS PRESIDENT, MANAGING PARTNER, GENERAL MANAGER, CORPORATE SECRETARY, TREASURER OR IN-HOUSE COUNSEL THEREBY IGNORING THE RULE ON SERVICE OF SUMMONS ON PRIVATE DOMESTIC CORPORATIONS.[7]

Simply stated, the issue in this case is whether there was a valid service of summons on petitioner for the trial court to acquire jurisdiction over the person of the corporate defendant below, now the petitioner herein.

Petitioner contends that for the court to validly acquire jurisdiction over a domestic corporation, summons must be served only on the corporate officers enumerated in Section 11,[8] Rule 14 of the 1997 Rules of Civil Procedure. Petitioner maintains that the alias summons was not validly served on it since the alias summons was served on Marifa Dela Cruz, an employee of Dole Pacific General Services, Ltd., which is an entity separate and distinct from petitioner. It further avers that even if she were an employee of the petitioner, she is not one of the officers enumerated under Section 11, Rule 14. Thus, the RTC, without proper service of summons, lacks jurisdiction over petitioner as defendant below.

Private respondent All Season, for its part, contends that the trial court had acquired jurisdiction over petitioner, since petitioner received the alias summons through its president on April 23, 2003. According to private respondent, there was full compliance with Section 11, Rule 14, when Marifa Dela Cruz received the summons upon instruction of petitioner's president as indicated in the Officer's Return.[9] More so, petitioner had admitted that it received the alias summons in its Entry of Appearance with Motion for Time[10] filed on May 5, 2003.

Well-settled is the rule that service of summons on a domestic corporation is restricted, limited and exclusive to the persons enumerated in Section 11, Rule 14 of the 1997 Rules of Civil Procedure, following the rule in statutory construction that *expressio unius est exclusio alterius*. [11] Service must therefore be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.

In this case, it appears that on April 23, 2003, Marifa Dela Cruz, a legal assistant, received the alias summons.[12] Contrary to private respondent's claim that it was received upon instruction of the president of the corporation as indicated in the Officer's Return, such fact does not appear in the receiving copy of the alias summons which Marifa Dela Cruz signed. There was no evidence that she was authorized to receive court processes in behalf of the president. Considering that the service of summons was made on a legal assistant, not employed by herein petitioner and who is not one of the designated persons under Section 11, Rule 14, the trial court did not validly acquire jurisdiction over petitioner.

However, under Section 20 of the same Rule, a defendant's voluntary appearance in the action is equivalent to service of summons.[13] As held previously by this Court, 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.[14]

Note that on May 5, 2003, petitioner filed an Entry of Appearance with Motion for Time. It was not a conditional appearance entered to question the regularity of the service of summons, but an appearance submitting to the jurisdiction of the court by acknowledging the receipt of the alias summons and praying for additional time to file responsive pleading.[15] Consequently, petitioner having acknowledged the receipt of the summons and also having invoked the jurisdiction of the RTC to secure affirmative relief in its motion for additional time, petitioner effectively submitted voluntarily to the jurisdiction of the RTC. It is estopped now from asserting otherwise, even before this Court.[16] The RTC therefore properly took cognizance of the case against Dole Philippines, Inc., and we agree that the trial and the appellate courts committed no error of law when Dole's contentions were overruled.

WHEREFORE, the petition is DENIED for lack of merit. The Decision dated May 20, 2005 of the Court of Appeals in CA-G.R. SP No. 87723 and its Resolution dated June 28, 2005 are AFFIRMED. Costs against petitioner.

SO ORDERED.

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

[1] Rollo, pp. 64-71. Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo concurring.

[2] Id. at 60-61.

[3] Id. at 42-46. Penned by Acting Presiding Judge Reinato G. Quilala.

[4] Id. at 56-58.

[5] Id. at 31.

[6] Id. at 68-69.

[7] Id. at 15-16.

[8] 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.

[9] Records, p. 46.

[10] Id. at 40-42.

[11] *Mason v. Court of Appeals*, G.R. No. 144662, October 13, 2003, 413 SCRA 303, 311.

[12] Records, p. 47.

[13] Rule 14, 1997 RULES OF CIVIL PROCEDURE:

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.

[14] *Hongkong and Shanghai Banking Corporation Limited v. Catalan*, G.R. Nos. 159590-91, October 18, 2004, 440 SCRA 498, 515.

[15] Records, pp. 40-41.

[16] *Hongkong and Shanghai Banking Corporation Limited v. Catalan*, *supra* at 516.

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