

**CONSTANTINO A. PASCUAL, SUBSTITUTED BY HIS HEIRS,
REPRESENTED BY ZENAIDA PASCUAL, PETITIONER, VS. LOURDES S.
PASCUAL, RESPONDENT.**

G.R. No. 171916. December 04, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Due process dictates that jurisdiction over the person of a defendant can only be acquired by the courts after a strict compliance with the rules on the proper service of summons.

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, with Prayer for Temporary Restraining Order and Writ of Preliminary Injunction, seeking to annul the Decision[1] dated June 29, 2005 and the Resolution[2] dated March 14, 2006 of the Court of Appeals (CA) nullifying and vacating the Decision[3] dated December 3, 2002 and Order[4] dated April 4, 2003 of the Regional Trial Court (RTC), Branch 12, Malolos, Bulacan.

The facts, as found in the records, are the following:

Petitioner filed a Complaint for Specific Performance with Prayer for Issuance of Preliminary Mandatory Injunction with Damages before the RTC of Malolos, Bulacan against respondent. The process server, in his Return of Service[5] dated May 21, 2002, reported, among others that:

The undersigned Process Server of this Honorable Court went at defendant's given address at No. 4 Manikling St., Talayan Village, Quezon City on May 20, 2002 to serve the summons and copy of the Complaint together with the annexes thereto in connection with the above-entitled case.

At the time of the service of the said summons, the defendant was not at her home and only her maid was there who refused to receive the said summons [in spite] of the insistence of the undersigned.

The undersigned, upon his request with the Brgy. Clerk at the said place, was given a certification that he really exerted effort to effect the service of the said summons but failed due to the above reason. (Annex "A").

The following day, May 21, 2002, the undersigned went back at defendant's residence to have her receive the subject summons but again the above defendant was not at her house.

WHEREFORE, the original summons and copy of the complaint is hereby returned to the Honorable Court NOT SERVED.

Malolos, Bulacan, May 21, 2002.

Thereafter, an alias summons was issued by the RTC and, on May 29, 2002, the following report was submitted:

The undersigned, on May 29, 2002, made a 3[rd] attempt to serve the alias summons issued by the Hon. Court relative with the above-entitled case at the given address of the defendant.

The undersigned, accompanied by the barangay officials of the said place, proceeded at defendant's residence but the undersigned was not permitted to go inside her house and was given information by her maid that the defendant was not there.

The defendant's car was parked inside her house and inquiries/verification made on her neighbors revealed that the defendant was inside her house at the time of service of said summons and probably did not want to show-up when her maid informed her of undersigned's presence.

WHEREFORE, the undersigned court process server respectfully returned the alias summons dated May 29, 2002 issued by the Hon. Court "UNSERVED" for its information and guidance.

Malolos, Bulacan, May 30, 2002.[6]

Subsequently, on August 14, 2002, the process server returned with the following report,[7] stating that a substituted service was effected:

This is to certify that on the 14[th] day of August, 2002, I personally went at Dr. Lourdes Pascual's residence at #4 Manikling Street, Talayan Village, Quezon City, to serve the copy of the Summons dated August 12, 2002, together with a copy of the Complaint and its annexes thereto.

Defendant Dr. Lourdes Pascual was out during the time of service of the said summons and only her housemaid was present. The undersigned left a copy of the same to the latter who is at the age of reason but refused to sign the same.

WHEREFORE, the undersigned respectfully return the service of summons duly served for information and guidance of the Honorable Court.

Malolos, Bulacan, August 14, 2002.

For failure of the respondent to file a responsive pleading, petitioner, on September 17, 2002, filed a Motion to Declare Defendant in Default[8] to which the petitioner filed an Opposition/Comment to Plaintiff's Motion to Declare Defendant in Default[9] dated October 1, 2002, claiming that she was not able to receive any summons and copy of the complaint. The RTC, in its Order[10] dated October 30, 2002, declared respondent in default and allowed petitioner to file his evidence ex-parte.

Respondent filed a Motion for Reconsideration[11] dated November 18, 2002 seeking to set aside the above-mentioned Order dated October 30, 2002. However, the said motion was denied by the RTC in its Order[12] dated November 27, 2002.

Consequently, on December 3, 2002, the RTC, in its Decision,[13] found in favor of the petitioner. The dispositive portion of the said Decision reads:

WHEREFORE, in light of all the foregoing, judgment is hereby rendered in favor of the plaintiff, Constantino A. Pascual, and against Lourdes S. Pascual, ordering the latter as follows:

- a. to CEASE AND DESIST from further intervening with the corporate and internal affairs of Rosemoor Mining Corporation, consisting of acts and omissions prejudicial and detrimental to the interest of the said corporation resulting to irreparable injury to herein plaintiff;
- b. to pay plaintiff the sum of One Hundred Thousand Pesos (P100,000.00), for and by way of moral damages;
- c. to pay the sum of Thirty Thousand Pesos (P30,000.00) for and by way of Attorney's fees; and
- d. to pay the costs of this suit.

SO ORDERED.

Respondent then filed a Motion to Set Aside Order of Default[14] dated December 13, 2002, with the argument of non-service of summons upon her. This was denied by the RTC in its Order[15] dated April 4, 2003; and on the same day, a Certificate of Finality and Entry of Judgment was issued. Eventually, respondent, on April 28, 2003, filed a Motion for Reconsideration[16] of the Order dated April 4, 2003, which was denied by the RTC in its Order[17] dated June 23, 2003. Finally, on June 26, 2003, a Writ of Execution was issued to enforce the Decision dated December 3, 2002 of the RTC.

Aggrieved, respondent filed with the CA a Petition for Certiorari and Prohibition under Rule 65 of the Rules of Court which was granted by the same Court in its Decision[18] dated June 29, 2005, the dispositive portion of which reads:

WHEREFORE, the petition is GIVEN DUE COURSE and GRANTED. The said Decision, as well as the Orders and the processes on which this is premised, are NULLIFIED and VACATED.

SO ORDERED.

Petitioner comes now to this Court through a Petition for Review on Certiorari under Rule 45 of the Rules of Court, with Prayer for Temporary Restraining Order and Writ of Preliminary Injunction, on the following grounds:

I

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THERE WAS AN INVALID SERVICE OF SUMMONS UPON THE RESPONDENT AND, HENCE, THE COURT (REGIONAL TRIAL COURT) DID NOT ACQUIRE JURISDICTION OVER THE RESPONDENT.

II

THE HONORABLE COURT OF APPEALS ERRED IN GIVING DUE COURSE TO THE PETITION WHEN FROM THE UNDISPUTED FACTS, THE RESPONDENT'S FAILURE TO INTERPOSE AN APPEAL OR TO FILE A MOTION FOR RECONSIDERATION OR A PETITION FOR RELIEF FROM JUDGMENT CLEARLY BARS THE INSTITUTION OF THE SPECIAL CIVIL ACTION FOR CERTIORARI UNDER RULE 65, 1997 RULES OF CIVIL PROCEDURE.

Petitioner insists that there was a valid substituted service of summons and that there should be a presumption of regularity in the performance of official functions. He also avers that certiorari, which was filed by the respondent with the CA, does not lie when the remedy of appeal has been lost.

In her Comment with Motion to Cite for Contempt[19] dated August 29, 2006, respondent raises the following issues:

1. SHOULD THE PETITION BE DISMISSED FOR HAVING BEEN FILED IN VIOLATION REPUBLIC ACT NO. 6713 IN RELATION TO ART. 5 OF THE CIVIL CODE?
2. ARE THE PETITIONER AND HIS COUNSEL PUNISHABLE FOR CONTEMPT OF COURT FOR KNOWINGLY MISLEADING THIS HONORABLE COURT?
3. WAS THE ALLEGED SERVICE OF SUMMONS ON THE ILLITERATE MAID EFFECTIVE TO CONFER JURISDICTION OVER THE DEFENDANT BEFORE THE RTC OF MALOLOS, BULACAN?
4. ASSUMING FOR THE SAKE OF ARGUMENT THAT THE SERVICE OF SUMMONS WAS VALID, WAS THE ORDER DECLARING THE DEFENDANT IN DEFAULT RENDERED WITH GRAVE ABUSE OF DISCRETION?

5. WAS THE ORDER DENYING THE MOTION TO LIFT AND SET ASIDE THE ORDER OF DEFAULT RENDERED WITH GRAVE ABUSE OF DISCRETION?

6. IS THE PETITIONER GUILTY OF FORUM SHOPPING?

7. WILL THIS HONORABLE COURT ALLOW THE NULL AND VOID DECEMBER 3, 2002 DECISION OF THE RTC TO BECOME FINAL AND EXECUTORY AND OBLITERATE THE CRIMINAL ACT OF FALSIFICATION, THEREBY REWARDING THE AUTHOR OF THE CRIMINAL OFFENSE?

In addressing the above issues, the respondent argues that the CA decision became final by operation of law because the present petition is null and void for being a violation of the provisions of Republic Act No. 6712, in relation to Article 5 of the Civil Code, the counsel for petitioner having filed a Motion for Extension of Time to File Petition for Review and, thereafter, the Petition for Review itself. She also claims that there was no proper service of summons as the maid who was purportedly served a copy thereof was illiterate and has denied being served in a sworn statement executed before a notary public and, thus, the RTC never acquired jurisdiction over her person. According to her, assuming that the summons were indeed served, the RTC was guilty of grave abuse of discretion for declaring her in default and for refusing to lift the order of default because it deprived her of her right to present evidence in support of her defense. She further disputes the argument of the petitioner that the Decision dated December 3, 2002 became final because it did not become the subject of appeal by stating that the said principle can only be applied to valid judgments that were rendered in accordance with law and not to void judgments rendered without jurisdiction or in excess thereof. In addition, she avers that petitioner made a deliberate and malicious concealment of the fact that at the time he filed the case for specific performance, as well as during the time it was being heard, he was already being investigated in administrative proceedings before the National Bureau of Investigation, the Department of Justice and the Municipal Trial Court of Malolos, Bulacan, Branch 2, involving the same subject matter, issues and parties; hence, he violated the law against forum shopping. Lastly, respondent points out that the CA Decision dated June 29, 2005 is a permanent injunction against the implementation of the contested Orders and Decisions of the RTC; therefore, there is an urgent necessity to enforce the said judgment.

On June 30, 2008, this Court granted[20] the substitution of the respondent by his heirs as represented by his wife Zenaida Pascual, after the Manifestation[21] dated June 12, 2008 was filed informing this Court of the demise of the same respondent.

After a careful study of the records of this case, this Court finds the petition bereft of any merit.

Clearly, the main, if not the only issue that needs to be resolved is whether or not there was a proper and valid substituted service of summons, the resolution of which, will determine whether jurisdiction was indeed acquired by the trial court over the person of the petitioner.

In a case where the action is in personam and the defendant is in the Philippines, the service of summons may be done by personal or substituted service as laid out in Sections 6 and 7 of Rule 14 of the Revised Rules of Court. The provisions state:

Section 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.

Section 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.

A plain and simple reading of the above provisions indicates that personal service of summons should and always be the first option, and it is only when the said summons cannot be served within a reasonable time can the process server resort to substituted service.

This Court gave an in-depth discussion as to the nature and requisites of substituted service in *Manotoc v. Court of Appeals, et al.*:^[22]

We can break down this section into the following requirements to effect a valid substituted service:

(1) Impossibility of Prompt Personal Service

The party relying on substituted service or the sheriff must show that defendant cannot be served promptly or there is impossibility of prompt service.^[23] Section 8, Rule 14 provides that the plaintiff or the sheriff is given a "reasonable time" to serve the summons to the defendant in person, but no specific time frame is mentioned. "Reasonable time" is defined as "so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party."^[24] Under the Rules, the service of summons has no set period. However, when the court, clerk of court, or the plaintiff asks the sheriff to make the return of the summons and the latter submits the return of summons, then the validity of the summons lapses. The plaintiff may then ask for an alias summons if the service of summons has failed.^[25] What then is a reasonable time for the sheriff to effect a personal service in order to demonstrate impossibility of prompt service? To the plaintiff, "reasonable time" means no more than seven (7) days since an expeditious processing of a complaint is what a plaintiff wants. To the sheriff, "reasonable time" means 15 to 30 days because at the end of the month, it is a practice for the branch clerk of court to require the sheriff to submit a return of the summons assigned to the sheriff for service. The Sheriff's Return provides data to the Clerk of Court, which the clerk uses in the Monthly Report of Cases to be submitted to the Office of the Court Administrator within the first ten (10) days of the succeeding month. Thus, one month from the issuance of summons can be considered "reasonable time" with regard to personal service on the defendant.

Sheriffs are asked to discharge their duties on the service of summons with due care, utmost diligence, and reasonable promptness and speed so as not to prejudice the expeditious dispensation of justice. Thus, they are enjoined to try their best efforts to accomplish personal service on defendant. On the other hand, since the defendant is expected to try to avoid and evade service of summons, the sheriff must be resourceful, persevering, canny, and diligent in serving the process on the defendant. For substituted service of summons to be available, there must be several attempts by the sheriff to personally serve the summons within a reasonable period [of one month] which eventually resulted in failure to prove impossibility of prompt service. "Several attempts" means at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.

(2) Specific Details in the Return

The sheriff must describe in the Return of Summons the facts and circumstances surrounding the attempted personal service.^[26] The efforts made to find the defendant and the reasons behind the failure must be clearly narrated in detail in the Return. The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. The form on Sheriff's Return of Summons on Substituted Service prescribed in the Handbook for Sheriffs published by the Philippine Judicial Academy requires a narration of the efforts made to find the defendant personally and the fact of failure.^[27] Supreme Court Administrative Circular No. 5 dated November 9, 1989 requires that "impossibility of prompt service should be shown by stating the efforts made to find the defendant personally and the failure of such efforts," which should be made in the proof of service.

(3) A Person of Suitable Age and Discretion

If the substituted service will be effected at defendant's house or residence, it should be left with a person of "suitable age and discretion then residing therein." [28] A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. "Discretion" is defined as "the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed". [29] Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the "relation of confidence" to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipient's relationship with the defendant is, and whether said person comprehends the significance of the receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.

(4) A Competent Person in Charge

If the substituted service will be done at defendant's office or regular place of business, then it should be served on a competent person in charge of the place. Thus, the person on whom the substituted service will be made must be the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. Again, these details must be contained in the Return.

Petitioner contends that there was a valid substituted service of summons as shown in not one, but three Officer's Return. He points out that the absence in the officer's return of a statement about the impossibility of personal service does not conclusively prove that the service was invalid. He adds that proof of prior attempts to serve personally can be deduced from the other returns when there are several in a series of officer's returns all tending to establish the impossibility of personal service upon the respondent. However, the said argument of the petitioner is merely a plain deduction that veers away from the well-established requisite that the officer must show that the defendant cannot be served promptly, or that there was an impossibility of prompt service. A cursory reading of the three Officer's Returns does not show any compliance with the said requisite. The Return of Service dated May 21, 2002 inadequately states that:

X X X X

At the time of service of the said summons, the defendant was not at her home and only her maid was there who refused to receive the said summons [in spite] of the insistence of the undersigned.

The undersigned, upon his request with the Brgy. Clerk at the said place, was given a certification that he really exerted effort to effect the service of the said summons but failed due to the above reason. (Annex "A").

The following day, May 21, 2002, the undersigned went back at defendant's residence to have her receive the subject summons but again the above defendant was not at her house.

X X X X

Similarly, in the Return of Service dated May 30, 2002, pertinent details were wanting, as it reads:

X X X X

The undersigned accompanied by the barangay officials of the said place proceeded at defendant's residence

but the undersigned was not permitted to go inside her house and was given information by her maid that the defendant was not there.

The defendant's car was parked inside her house and inquiries/verification made on her neighbors revealed that the defendant was inside her house at the time of service of said summons and probably did not want to show-up when her maid informed her of undersigned's presence.

x x x x

Lastly, the Return of Service dated August 14, 2002 was no different. It reads:

x x x x

Defendant Dr. Lourdes Pascual was out during the time of service of the said summons and only her housemaid was present. The undersigned left a copy of the same to the latter who is at the age of reason but refused to sign the same.

x x x x

The above Return of Summons does not show or indicate the actual exertion or any positive steps taken by the officer or process server in serving the summons personally to the defendant. As in *Jose v. Boyon*,^[30] this Court ruled that:

The Return of Summons shows no effort was actually exerted and no positive step taken by either the process server or petitioners to locate and serve the summons personally on respondents. At best, the Return merely states the alleged whereabouts of respondents without indicating that such information was verified from a person who had knowledge thereof. Certainly, without specifying the details of the attendant circumstances or of the efforts exerted to serve the summons, a general statement that such efforts were made will not suffice for purposes of complying with the rules of substituted service of summons.

The necessity of stating in the process server's Return or Proof of Service the material facts and circumstances sustaining the validity of substituted service was explained by this Court in *Hamilton v. Levy*,^[31] from which we quote:

x x x The pertinent facts and circumstances attendant to the service of summons must be stated in the proof of service or Officer's Return; otherwise, any substituted service made in lieu of personal service cannot be upheld. This is necessary because substituted service is in derogation of the usual method of service. It is a method extraordinary in character and, hence, may be used only as prescribed and in the circumstances authorized by statute. Here, no such explanation was made. Failure to faithfully, strictly, and fully comply with the requirements of substituted service renders said service ineffective.^[32]

Petitioner further states that the presumption of regularity in the performance of official functions must be applied to the present case. He expounds on the fact that as between the process server's return of substituted service, which carries with it the presumption of regularity and the respondent's self-serving assertion that she only came to know of the case against her when she received a copy of the petitioner's motion to declare her in default, the process server's return is undoubtedly more deserving of credit. The said argument, however, is only meritorious, provided that there was a strict compliance with the procedure for serving a summons. In the absence of even the barest compliance with the procedure for a substituted service of summons outlined in the Rules of Court, the presumption of regularity in the performance of public functions does not apply.^[33]

Applying the above disquisitions, the jurisdiction over the person of the respondent was never vested with the RTC, because the manner of substituted service by the process server was apparently invalid and ineffective. As such, there was a violation of due process. Jurisdiction over the defendant is acquired either upon a valid service

of summons or the defendant's voluntary appearance in court. When the defendant does not voluntarily submit to the court's jurisdiction or when there is no valid service of summons, "any judgment of the court which has no jurisdiction over the person of the defendant is null and void." [34]

Petitioner also raises the issue of the impropriety of the remedy resorted to by the respondent which is the filing of a Petition for Certiorari under Rule 65 of the Rules of Court, claiming that the said remedy is inappropriate because there are still other plain, speedy and adequate remedies available, such as an ordinary appeal, the Decision of the RTC having attained its finality. The question, however, is whether the said Decision has indeed attained finality. The importance of the doctrine of the finality of judgment has always been emphasized by this Court. In *Pasiona, Jr. v. Court of Appeals*, [35] this Court has expounded on the said doctrine, thus:

The Court re-emphasizes the doctrine of finality of judgment. In *Alcantara v. Ponce*, [36] the Court, citing its much earlier ruling in *Arnedo v. Llorente*, [37] stressed the importance of said doctrine, to wit:

It is true that it is the purpose and intention of the law that courts should decide all questions submitted to them "as truth and justice require," and that it is greatly to be desired that all judgments should be so decided; but controlling and irresistible reasons of public policy and of sound practice in the courts demand that at the risk of occasional error, judgments of courts determining controversies submitted to them should become final at some definite time fixed by law, or by a rule of practice recognized by law, so as to be thereafter beyond the control even of the court which rendered them for the purpose of correcting errors of fact or of law, into which, in the opinion of the court it may have fallen. The very purpose for which the courts are organized is to put an end to controversy, to decide the questions submitted to the litigants, and to determine the respective rights of the parties. With the full knowledge that courts are not infallible, the litigants submit their respective claims for judgment, and they have a right at some time or other to have final judgment on which they can rely as a final disposition of the issue submitted, and to know that there is an end to the litigation. [38]

Then, in *Juani v. Alarcon*, [39] it was held, thus:

This doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice. In fact, nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. [40]

Again, in *Dinglasan v. Court of Appeals*, [41] the Court declared that:

After the judgment or final resolution is entered in the entries of judgment, the case shall be laid to rest. x x x

x x x x

The finality of decision is a jurisdictional event which cannot be made to depend on the convenience of the party. To rule otherwise would completely negate the purpose of the rule on completeness of service, which is to place the date of receipt of pleadings, judgment and processes beyond the power of the party being served to determine at his pleasure. [42]

The said doctrine, however, is applicable only when the judgment or decision is valid. In the present case, as earlier pronounced, and as ruled by the CA, the judgment in question is void, the RTC not having acquired jurisdiction over the person of the respondent. It is a well-entrenched principle that a void judgment can never become final. As ruled by this Court in *Metropolitan Bank & Trust Company v. Alejo*: [43]

In *Leonor v. Court of Appeals* [44] and *Arcelona v. Court of Appeals*, [45] we held thus:

A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the

creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void: "x x x it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head."

Thus, from the above discussion, the Decision of the RTC, not having attained its finality due to its being void, the Petition for Certiorari under Rule 65, filed by the respondent with the CA, was proper.

WHEREFORE, the Petition dated May 3, 2006 is hereby DENIED and the Decision dated June 29, 2005 of the Court of Appeals in CA-G.R. SP No. 77789 is hereby AFFIRMED in toto.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Penned by Associate Justice Roberto A. Barrios, with Associate Justices Amelita G. Tolentino and Vicente S. E. Veloso, concurring; rollo, pp. 28-37.

[2] Id. at 39.

[3] Id. at 194-200.

[4] Id. at 187-193.

[5] Id. at 43.

[6] Id. at 44.

[7] Id. at 46.

[8] Id. at 171-172.

[9] Id. at 173-174.

[10] Id. at 47-48.

[11] Id. at 177-179.

[12] Id. at 49-50.

[13] Id. at 194-200.

[14] Id. at 182.

[15] Id. at 187.

[16] Id. at 201-208.

[17] Id. at 210-211.

[18] Id. at 28-37.

[19] Id. at 95.

[20] Id. at 377.

[21] Id. at 373-374.

- [22] G. R. No. 130974, August 16, 2006, 499 SCRA 21, 34-37.
- [23] Arevalo v. Quilatan, 202 Phil. 256, 262 (1982).
- [24] Far East Realty Investment, Inc. v. Court of Appeals, 248 Phil. 497, 503-504 (1988) .
- [25] Supra note 21, Sec. 5.
- [26] Domagas v. Jensen, G.R. No. 158407, January 17, 2005, 448 SCRA 633.
- [27] A Handbook for Sheriffs (October 2003), p. 116.
- [28] Revised Rules of Court, Rule 14, Sec. 8.
- [29] Webster's Third New International Dictionary, p. 647 (1993).
- [30] G.R. No. 147369, October 23, 2003, 414 SCRA 216, 223-224.
- [31] G.R. No. 139283, November 15, 2000, 344 SCRA 821.
- [32] Id. at 829.
- [33] Sandoval II v. HRET, et al., 433 Phil. 290, 309 (2002), citing Hamilton v. Levy, supra note 31; Spouses Venturanza v. Court of Appeals, 240 Phil. 306 (1987); Arevalo v. Quilatan, supra note 23.
- [34] Manotoc v. Court of Appeals, et al., supra note 22, citing Domagas v. Jensen, supra note 26, at 677, which cited Lam v. Rosillosa, 86 Phil. 447 (1950).
- [35] G.R. No. 165471, July 21, 2008, 559 SCRA 137, 145-146.
- [36] G..R. No. 131547, December 15, 2005, 478 SCRA 27.
- [37] 18 Phil. 257 (1911).
- [38] Alcantara v. Ponce, supra note 36, at 49-50; Arnedo v. Llorente, supra note 37, at 262-263.
- [39] G..R. No. 166849, September 5, 2006, 501 SCRA 135.
- [40] Id. at 155.
- [41] G..R. No. 145420, September 19, 2006, 502 SCRA 253.
- [42] Id. at 266.
- [43] G.R. No. 141970, September 10, 2001, 364 SCRA 812, 823.
- [44] 326 Phil. 74, 88 (1996). (Emphasis ours.)
- [45] 345 Phil. 250, 287. (Emphasis ours.)

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