ALEGAR CORPORATION, PETITIONER, VS. EMILIO ALVAREZ, RESPONDENT.

G.R. NO. 172555. July 10, 2007

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-172555/

CARPIO MORALES, J.:

The Legarda family, owner of a parcel of land designated as Lot 20, Block RP-39 located in Sampaloc, Manila, assigned its rights and interests over it on May 9, 2000, by a Deed of Assignment[1] in favor of Alegar Corporation (petitioner), in whose name Transfer Certificate of Title No. 250317 was issued on February 14, 2001.

The Legarda family had verbally leased the property on a monthly basis to Catalina Bartolome (Catalina). Even after Catalina's death, her children Amado, Isabelita, Pacita, Ramon, and Benjamin continued to occupy the property.

Because of non-payment of rentals, petitioner, by counsel, sent a letter[2] dated May 13, 2002 addressed to the "Heirs of Catalina Bartolome" demanding them to vacate the premises and pay their arrearages within 15 days from receipt of the letter. Based on a certification[3] issued by the Manila Central Post Office, the letter was received via registered mail by Emilio Alvarez (respondent), a son of Catalina's son Benjamin, on May 17, 2002.

Its demands having remained unheeded, petitioner filed before the Metropolitan Trial Court of Manila (MeTC) a complaint[4] for unlawful detainer against the "Heirs of Catalina Bartolome, Spouses Amado and "Jane Doe," Bartolome, Spouses "John Doe" and Isabelita Anquilo, Spouses "Johanne Doe" and Pacita Landayan, Spouses Benjamin and "Joan Doe" Bartolome-Alvarez, Ramon Alvarez, and those persons claiming rights under them." (Underscoring supplied). Petitioner prayed that the defendants be ordered to vacate the property and to pay P1,100 per month beginning May 2002 until they vacate the property, P25,000 attorney's fees, and the costs of suit.

The RETURN OF SERVICE OF SUMMONS accomplished by Process Server Alfonso D. Valino reads:

> This is to certify that the undersigned tried to serve the Summons and copy of the complaint to the following defendants;
>
> - Defendant Catalina Bartolome, Amado Bartolome, and Benjamin Bartolome-Alvarez, all of 455 Pepin Street, Sampaloc, Manila had been served with summons on May 20, 2003, but the said persons were all dead a year ago, as per information given by their tenant, Mr. Acosta who is residing at the same given address.
>
> - With respect to defendants Sps. John Doe and Isabelita Anquilo and Sps. Johanne Doe and Pacita Landayan, all of 455 Pepin Street, Sampaloc, Manila, summons were not served on May 20, 2003 because said persons were no longer residing at the given address a year ago, as per informations given by their tenant, Mr. Acosta who is residing at the same address.
>
> - Defendant Ramon Alvarez of 455 Pepin Street, Sampaloc, Manila was served thru his tenant, Mr. Guilberto Acosta as evidence[d] by his signature at the original summons.

> The original of the Summons are hereby respectfully returned DULY SERVED.[5] (Emphasis supplied; underscoring partly in the original, partly supplied)

The original of the summons bears the signature of one Guilberto Acosta who received it for the defendant Ramon Alvarez on May 20, 2003.

Herein respondent filed an Answer,[6] alleging that the defendants Amado, Isabelita, Pacita and their brother Benjamin, who is his father, had died, hence, they may not be considered as parties-in-interest; that upon his father Benjamin's death, the latter's right to lease was transmitted to him and his siblings who should be considered real parties-in-interest in the case; that he and his siblings have no knowledge or information of the Deed of Assignment in favor of petitioner which was not even registered and they may not be bound by it; and that the verbal monthly lease agreement cannot be terminated upon failure to settle rental arrearages, given the length of time that the lease had been in effect, citing Article 1687 of the Civil Code.

Respondent in fact questioned the service of only one set of summons, despite the number of defendants, and even the service thereof on one Guilberto Acosta who was not authorized to receive the same.

Petitioner countered that it allowed the defendants to continue leasing on a monthly basis, but since they have not been paying rentals, the lease had been terminated; that Article 1687 cannot be invoked by the defendants since a verbal contract of lease between the owner and the lessee on a monthly basis is a lease with a definite period which expires after the last day of any given 30-day period, upon proper demand and notice by the lessor to vacate; and that while the demand letter was received only by respondent, his receipt is considered as receipt by all of them, citing Section 2, Rule 70 of the Rules of Court.

By Decision of April 26, 2004, Branch 25 of the MeTC Manila rendered judgment[7] in favor of petitioner, it holding that the receipt by respondent of the demand letter addressed to the Heirs is deemed sufficient compliance with the jurisdictional requirement of prior demand to pay and vacate; and that the termination of the lease expressed in petitioner's May 13, 2002 letter is a ground to eject the defendants. Additionally, the trial court held that the lease had expired upon failure of respondent et al. to pay rentals.

On respondent's claim of lack of jurisdiction over the persons of the defendants, the MeTC held that the filing by respondent of an Answer is a clear manifestation that he and his co-defendants voluntarily appeared and submitted themselves to its jurisdiction.

The defendants were accordingly ordered by the MeTC to vacate the premises, and pay P1,100 as monthly rental starting May 2002 until they vacate, attorney's fees, and other costs.

On appeal, the Regional Trial Court (RTC) affirmed the MeTC decision, it citing "G & G Trading Corporation v. Court of Appeals"[8] which held that "[a]lthough it may be true that the service of summons was made on a person not authorized to receive the same in behalf of the petitioner, nevertheless, since it appears that the summons and the complaint were in fact received by the corporation through its clerk, . . . there was substantial compliance with the rule on service of summons."

On elevation of the case to the Court of Appeals via Petition for Review,[9] the complaint was, by Decision[10] of January 12, 2006, dismissed without prejudice in this wise:

> We find the substituted service of summons was not validly effected on [respondent] because the return of the process server did not clearly indicate the impossibility of service of summons within a reasonable time upon the [respondent]. More importantly, the summons was merely left behind to a certain Gilbert Acosta, whose relation to the case remained a mystery to this day. There was no explanation whatsoever in the return as to indicate any effort exerted if any on the part of the process server in verifying the whereabouts of the

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> [respondent] from any responsible person of sufficient age, and there was no indication in the return that personal service was impossible. The return merely made general statements that [respondent] could not be found.
>
> x x x x
>
> It was cavalier for the MTC and RTC to pronounce that EMILIO voluntarily submitted himself to the jurisdiction of the court because of his act of filing his Answer.
>
> In fact, he pleaded lack of jurisdiction due to improper service of summons as an affirmative defense. While lack of jurisdiction is nominally a ground for a Motion to Dismiss under the Rule 16 of the Rules of Court, its inclusion as an affirmative defense in the Answer is allowed under Section 6, Rule 16 of the Rules of Court. x x x[11] (Underscoring supplied)

Petitioner is now before this Court raising the sole issue of whether the appellate court erred in reversing the decision of the RTC which sustained the findings of the MeTC that it acquired jurisdiction over the persons of respondent and the defendants[12] named in the complaint.

The complaint names the defendants as follows: "Heirs of Catalina Bartolome, Spouses Amado and "Jane Doe," Bartolome, Spouses "John Doe" and Isabelita Anquilo, Spouses "Johanne Doe" and Pacita Landayan, Spouses Benjamin and "Joan Doe" Bartolome-Alvarez, Ramon Alvarez, and those persons claiming rights under them." (Underscoring supplied)

Admittedly, the therein named, now deceased, defendant Benjamin Alvarez is the father of respondent. Ergo, respondent, who is apparently residing in the questioned premises, is one who claims rights under him as in fact he proffers so.

Respondent questioned the service of summons on one Guilberto Acosta who, by his claim, was not authorized to receive summons on behalf of the defendants.

Assuming that Guilberto Acosta was not so authorized to receive summons on behalf of the defendants, the summons, together with a copy of the complaint, must have reached respondent; otherwise, he could not have filed an Answer to the Complaint. Respondent in fact participated in all the proceedings of the case. Thus, the purpose of summons, which is to give notice to the defendant or respondent that an action has been commenced against him, was sufficiently met.[13]

That the MeTC acquired jurisdiction over the person of respondent does not, however, extend to the other defendant Ramon Alvarez on whose behalf Acosta allegedly received the summons with copy of the complaint.

Based on the Return of Service of Summons submitted by the Process Server, it appears that indeed, only one set of summons and complaint was served - that which was received by Acosta. The rest of the therein named defendants-children of Catalina having died or are living elsewhere, it would appear that only the therein named defendant, Ramon Alvarez, together with those deriving rights under him, was served with summons thru Acosta. There is, however, no showing that substituted service of summons on Ramon Alvarez, under Section 7, Rule 14 of the Rules of Court which reads:

> 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, was justified.

In fine, only respondent, a person who claims right from his now deceased father Benjamin, is bound by the trial

court's decision.

The appellate court's dismissal of the complaint, without prejudice, except with respect to respondent, is thus in order.

WHEREFORE, the assailed Decision of the Court of Appeals dismissing petitioner's complaint, without prejudice, against all the defendants, except with respect to respondent, Emilio Alvarez who derives rights under the defendant Benjamin Alvarez, is AFFIRMED.

The decision of the Metropolitan Trial Court of Manila, Branch 25, adverse to respondent is thus REINSTATED.

SO ORDERED.

Carpio, Tinga, and Velasco, Jr., JJ., concur.
Quisumbing, J., (Chairperson), on official leave.

---

[1] Records, p. 7; Vide dorsal side of Annex "B."

[2] Id. at 8.

[3] Id. at 9.

[4] Id. at 2-5.

[5] Id. at 12.

[6] Id. at 13-25.

[7] Id. at 78-82.

[8] G.R. No. L-78299, February 29, 1998, 158 SCRA 466, 469.

[9] Court of Appeals rollo, pp. 6-17.

[10] Id. at 143-152; penned by Justice Vicente Q. Roxas and concurred in by Justices Godardo A. Jacinto and Juan Q. Enriquez, Jr.

[11] Id. at 147-151.

[12] Rollo, pp. 10-11.

[13] Paramount Insurance Corporation v. Japzon, G.R. No. 68037, July 29, 1992, 211 SCRA 879, 885; Pahilanga v. Luna, G.R. No. L-48724, August 29, 1988, 164 SCRA 725, 729; Ablaza v. CIR, et al., 211 Phil. 425, 432 (1983).

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.