

ELEUTERIO CANEDA, PETITIONER, VS. COURT OF APPEALS, HON. GREGORIO S. NARVASA, AND/OR THE PRESIDING JUDGE OF THE FIFTH BRANCH AND/OR COURT OF FIRST INSTANCE OF MANILA, PROVINCIAL...*G.R. No. 18076. August 31, 1962*

Ponente: LABRADOR, J.

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This is an appeal by certiorari filed by the petitioner against an order of the respondent Court dismissing a petition filed by the herein petitioner in CA-G. R. No. 28667-R, Eleuterio Caneda vs. Hon. Gregorio S. Narvasa, et al., on the ground of lack of merits. In the petition Caneda alleged as a first cause of action that in Civil Case No. 25376 of the Court of First Instance of Manila, filed by Philamgen against him (Eleuterio Caneda) and Celerino Delgado, judgment was rendered sentencing the defendants to pay to plaintiff P2,986.50, notwithstanding the fact that no summons was served upon petitioner Eleuterio Caneda, but that a certain lawyer representing himself to be petitioner's attorney signed the summons for him (defendant); as a second cause of action, that in Civil Case No. 26428, also of the Court of First Instance of Manila, Philamgen as plaintiff and the herein petitioner Eleuterio Caneda, Celerino Delgado and Pedro Labra as defendants, the latter were sentenced to pay the sum of P4,597.50 in spite of the fact that Eleuterio Caneda was again not served summons, said summons having been received in petitioner's behalf by his co-defendant Celerino Delgado; and as third cause of action, that in Civil Case No. 26429, also of the Court of First Instance of Manila, entitled Philamgen vs. Eleuterio Caneda and Celerino Delgado, judgment was rendered against said defendants including petitioner, sentencing them to pay P3,000.00 notwithstanding the fact that no summons was served upon the petitioner herein, the summons having been received for him by his co-defendant Celerino Delgado. It is further alleged as a cause for complaint that in the first suit, Civil Case No. 25376 of the Court of First Instance of Manila, one Rosa V. Pangilinan, with office and/or residence at Enad Building, Juan Luna St., Cebu City, represented himself as counsel for petitioner in violation of the Rules, petitioner herein not having a residence or place of business at Enad Building, Juan Luna St., Cebu City; that in the second and third actions, hearing proceeded without summons having been served upon petitioner herein; that in none of the above actions has the petitioner ever engaged the services of Celerino Delgado, or authorized him to receive summons for him, or to appear for him as counsel; that the petitioner has been deprived of his day in court, respondent Philamgen having without his knowledge and with malice and bad faith filed and/or proceeded with the proceedings and/or delayed application for issuance of writ of execution of the judgments rendered, etc.; that respondent Philamgen in the civil cases above mentioned pretended good faith in accepting forged signatures of the herein petitioner as genuine, etc.; and that the petitioner has no other plain, speedy and adequate remedy in the ordinary course of law, the decisions in said civil cases having become final by lapse of time and the same are pending execution. The prayer asked for the issuance of a writ of preliminary injunction restraining the respondent judge, the sheriffs of Cebu and Bohol, and their agents or representatives, from executing the judgments rendered in said civil cases; and after trial to declare the decisions or the judgments in the above entitled cases null and void, as entered without jurisdiction and thereafter declare the preliminary

injunction issued as permanent.

The resolution of the Court of Appeals dismissing the petition reads thus:

"Acting upon the verified petition filed by counsel for petitioner in case CA-G. R. No. 28667-R, Eleuterio Caneda vs. Hon. Gregorio S. Narvasa, et al., praying, on the grounds therein stated, that upon petitioner's filing of a bond fixed by the Court, a writ of preliminary injunction be issued enjoining the respondents, Hon. Gregorio S. Narvasa or any presiding judge of the Fifth Branch of the Court of First Instance of Manila, the Provincial Sheriff of Cebu and the Provincial Sheriff of Bohol or any of their duly authorized representatives from enforcing the decision and writs of execution issued in Civil Cases No. 25376, Philippine American General Insurance Co., Inc. vs. Celerino Delgado, et al., No. 26428, Philippine American General Insurance Co., Inc. vs. Celerino Delgado, et al., and No. 26429, Philippine-American General Insurance Co., Inc. vs. Celerino Delgado et al., of the Court of First Instance of Manila; and after hearing, the decisions rendered by the respondent Judge in the above-entitled civil cases insofar as it affects the petitioner be annulled and be declared null and void and the aforesaid cases against him be dismissed; and considering the allegation in the petition itself that the decisions in the afore-entitled civil cases have already become final and hence can no longer be appealed, for which reason the remedy sought herein is not in aid of the Court's appellate jurisdiction; and considering further that the question of whether or not the respondent court acquired jurisdiction over the person of the petitioner in the aforementioned civil cases is one of fact requiring presentation of evidence, which can only be done in the appropriate civil action; the Court RESOLVED to DENY the petition for lack of merits, and consequently to DISMISS the case, as the same hereby is DISMISSED without pronouncement as to costs."

We find merit in the petition. Section 30 of the Judiciary Act of 1948 defines the pertinent jurisdiction of the Court of Appeals thus:

"SEC. 30. Original jurisdiction of the Court of Appeals.—The Court of Appeals shall have original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction."

The authority of the Court of Appeals to issue writs of mandamus, prohibition, injunction, certiorari and habeas corpus in aid of its appellate jurisdiction has been held to be based on the existence of a right to appeal to it from the judgment on the merits. *Tuason & Co., etc. vs. CA.*, G. R. No. L-18128, December 26, 1961; *Republic vs. Tuason, et al.*, G. R. No. L-18672, December 26, 1961; *Tuason & Co., Inc., etc., vs. Sanvictores*, G. R. No. L-16836, January 30, 1962.) For the Court of Appeals to have jurisdiction in said special civil cases it is not necessary that a party has actually appealed or will take an appeal against decisions or resolutions of the Court of First Instance; it is enough if it appears from the plaintiff's petition that the petitioner has a right to appeal according to law from the order or decision of the Court of First Instance to the Court of Appeals. (*Breslin, et al. vs. Luzon Stevedoring Co., et al.*, CA-G. R. No. 3121-R, Sept. 29, 1949; *Valero vs. Ysip, et al.*, CA-G. R. No. 4896-R, June 30, 1950.)

There is no doubt in the case at bar that had petitioner been notified of the proceedings taken against him in the manner provided by the Rules, he could have brought timely appeal against the judgments subject of his petition for annulment, it appearing that the amounts involved in the actions fall within the appellate jurisdiction of the Court of Appeals. In the case of *Salva vs. Palacio, et al.*, 90 Phil., 731; 53 Off. Gaz. (10) 3089, this Court in denying a petition filed before it, held:

"This petition should have been filed in the Court of Appeals because it is a special civil remedy in aid of the appellate jurisdiction of the Court of Appeals. Had the record on appeal been allowed it would have come under the appellate jurisdiction of the Court of Appeals."

The Court of Appeals has what may be known as a supervisory power over the courts of first instance, because ordinarily decisions or orders of these lower courts are appealable thereto. The case at bar is an example where the supervisory power should be exercised by the Court of Appeals to correct apparent errors affecting the validity of the proceedings before the lower court. It is not, as stated in the resolution of the Court of Appeals appealed from, the fact that evidence would be taken that determines whether or not the Court of Appeals has jurisdiction to entertain the petition for injunction. Were we to follow the ruling enunciated in the order appealed from, petitioner here would never have any remedy at all. Besides, the certified copies of the summonses and the service thereof to petitioner herein in the three cases subject of his petition for annulment are enough to prove the validity of his assertions that there was no service of summons upon him or that it had been irregular. Copies of the summonses have been furnished to this Court in the record and we are satisfied that the claim of petitioner stated in his petition, that he has not been summoned in accordance with the rules, is well-founded.

For the foregoing considerations, the petition is hereby granted, the decisions or judgments rendered against the petitioner are hereby declared null and void in so far as they affect the petitioner, and the preliminary injunction issued upon the filing of the petition is hereby made permanent. With costs against respondents Philippine-American General Insurance Co., Inc., Celerino Delgado and Pedro Labra. So ordered.

Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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