GREEN STAR EXPRESS, INC. AND FRUTO SAYSON, JR., PETITIONERS, VS. NISSIN-UNIVERSAL ROBINA CORPORATION, RESPONDENT.

G.R. No. 181517. July 06, 2015

Ponente: PERALTA,* J.

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PERALTA,[*] J.:

For resolution is a Petition for Review under Rule 45 of the Rules of Court which petitioners Green Star Express, Inc. and Fruto Sayson, Jr. brought before the Court, assailing the Decision[1] of the Court of Appeals (CA) dated September 17, 2007 and its Resolution[2] dated January 22, 2008 in CA-G.R. SP No. 86824. The CA nullified the Resolution dated May 5, 2004 of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31, in Civil Case No. SPL-0969, and dismissed the complaint for lack of jurisdiction.

The following are the antecedents of the case:

On February 25, 2003, a Mitsubishi L-300 van which Universal Robina Corporation (URC) owned figured in a vehicular accident with petitioner Green Star Express, Inc.'s (Green Star) passenger bus, resulting in the death of the van's driver. Thus, the bus driver, petitioner Fruto Sayson, Jr., was charged with the crime of reckless imprudence resulting in homicide.

Thereafter, Green Star sent a demand letter to respondent Nissin-Universal Robina Corporation (NURC) for the repair of its passenger bus amounting to P567,070.68. NURC denied any liability therefor and argued that the criminal case shall determine the ultimate liabilities of the parties. Thereafter, the criminal case was dismissed without prejudice, due to insufficiency of evidence.

Sayson and Green Star then filed a complaint for damages against NURC before the RTC of San Pedro, Laguna. Francis Tinio, one of NURC's employees, was the one who received the summons. On February 6, 2004, NURC filed a Motion to Dismiss claiming lack of jurisdiction due to improper service.

On May 5, 2004, the RTC issued a Resolution denying NURC's motion to dismiss. It ruled that there was substantial compliance because there was actual receipt of the summons by NURC. The dispositive portion of said Resolution thus reads:

> WHEREFORE, in view of the foregoing, defendant's "Motion to Dismiss" is hereby DENIED.[3]

Since its Motion for Reconsideration was denied, NURC elevated the case to the CA via a Petition for Certiorari. On September 17, 2007, the CA reversed the RTC ruling, hence:

> WHEREFORE, the instant Petition for Certiorari is GRANTED. The assailed Resolutions, dated May 5, 2004 and dated July 26, 2004, of the Regional Trial Court of San Pedro, Laguna, Branch 31, in Civil Case No. SPL-0969, are hereby NULLIFIED and a new one rendered granting Petitioner's Motion to Dismiss, dated February 3, 2004. Private Respondents' Amended Complaint for Damages filed against Petitioner Nissin-Universal Robina Corporation is accordingly dismissed for lack of jurisdiction.

SO ORDERED.[4]

Aggrieved, Green Star and Sayson moved for reconsideration, but the same was denied. Hence, this petition.

The lone issue is whether or not the summons was properly served on NURC, vesting the trial court with jurisdiction.

The petition is bereft of merit.

It is a well-established rule that the rules on service of summons upon a domestic private juridical entity must be strictly complied with. Otherwise, the court cannot be said to have acquired jurisdiction over the person of the defendant.[5]

NURC maintains that the RTC did not acquire jurisdiction over it as the summons was received by its cost accountant, Francis Tinio. It argues that under Section 11, Rule 14 of the 1997 Rules of Court, which provides the rule on service of summons upon a juridical entity, in cases where the defendant is a domestic corporation like NURC, summons may be served only through its officers.[6] Thus:

> 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.[7]

This provision replaced the former Section 13, Rule 14 of the 1964 Rules of Court which read:

> Section 13. Service upon private domestic corporation or partnership. — If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent, or any of its directors.[8]

In the past, the Court upheld service of summons upon a construction project manager, a corporation's assistant manager, ordinary clerk of a corporation, private secretary of corporate executives, retained counsel, and officials who had control over the operations of the corporation like the assistant general manager or the corporation's Chief Finance and Administrative Officer. The Court then considered said persons as "agent" within the contemplation of the old rule. Notably, under the new Rules, service of summons upon an agent of the corporation is no longer authorized.[9] The rule now likewise states "general manager" instead of "manager"; "corporate secretary" instead of merely "secretary"; and "treasurer" instead of "cashier."[10] It has now become restricted, limited, and exclusive only to the persons enumerated in the aforementioned provision, following the rule in statutory construction that the express mention of one person excludes all others, or expressio unios est exclusio alterius. Service must, therefore, be made only on the persons expressly listed in the rules.[11] If the revision committee intended to liberalize the rule on service of summons, it could have easily done so by clear and concise language.[12]

Here, Tinio, a member of NURC's accounting staff, received the summons on January 22, 2004. Green Star claims that it was received upon instruction of Junadette Avedillo, the general manager of the corporation. Such fact, however, does not appear in the Sheriffs Return.[13] The Return did not even state whether Avedillo was present at the time the summons was received by Tinio, the supposed assistant manager. Green Star further avers that the sheriff tendered the summons, but Avedillo simply refused to sign and receive the same. She then allegedly instructed Tinio to just receive it in her behalf. However, Green Star never presented said sheriff as witness during the hearing of NURC's motion to dismiss to attest to said claim. And while the sheriff executed an affidavit which appears to support such allegation, the same was likewise not presented as evidence. It was only when the case was already before the CA that said affidavit first surfaced. Since the service of summons was made on a cost accountant, which is not one of the designated persons under Section 11 of Rule 14, the trial court

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did not validly acquire jurisdiction over NURC,[14] although the corporation may have actually received the summons.[15] To rule otherwise will be an outright circumvention of the rules, aggravating further the delay in the administration of justice.[16]

At this juncture, it is worth emphasizing that notice to enable the other party to be heard and to present evidence is not a mere technicality or a trivial matter in any administrative or judicial proceedings. The service of summons is a vital and indispensable ingredient of due process. Corporations would be easily deprived of their right to present their defense in a multi-million peso suit, if the Court would disregard the mandate of the Rules on the service of summons.

WHEREFORE, the petition is DENIED. The Court of Appeals Decision dated September 17, 2007 and Resolution dated January 22, 2008 in CA-G.R. SP No. 86824 are hereby AFFIRMED.

SO ORDERED.

Leonardo-De Castro,[**] , Perez[***] Perlas-Bernabe,[****] and Leonen,[*****] JJ., concur.

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[*] Per Special Order No. 2071 dated June 23, 2015.

[**] Designated Acting Member in lieu of Associate Justice Martin S. Villarama, Jr., per Raffle dated September 24, 2014.

[***] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

[****] Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 2072 dated June 23, 2015.

[*****] Designated Acting Member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 2095-A dated July 1,2015.

[1] Penned by Associate Justice Noel G. Tijam, with Associate Justices Martin S. Villarama, Jr. (now a member of this Court), and Sesinando E. Villon; concurring; rollo, pp. 21-29.

[2] Id. at 30-31.

[3] Rollo, p. 23.

[4] Id. at 29. (Emphasis in the original)

[5] Atiko Trans, Inc. v. Prudential Guarantee and Assurance, Inc., 671 Phil. 388, 401 (2011).

[6] Cathay Metal Corporation v. Laguna West Multi-Purpose Cooperative, Inc., G.R. No. 172204, July 2, 2014.

[7] Emphasis ours.

[8] Emphasis ours.

[9] E.B. Villarosa & Partner Co., Ltd. v. Imperial Development Corporation, 370 Phil. 921, 928 (1999).

[10] Spouses Mason v. CA, 459 Phil. 689, 697 (2003).

[11] Dole Philippines, Inc. v. All Season Farm, Corp., 579 Phil. 700, 705 (2008).

[12] E.B. Villarosa & Partner Co., Ltd. v. Imperial Development Corporation, supra note 9, at 927.

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[13] Rollo, p. 44.

[14] Dole Philippines, Inc. v. All Season Farm, Corp., supra note 11, at 704.

[15] Spouses Mason v. CA, supra note 10, at 697; 699.

[16] E.B. Villarosa & Partner Co., Ltd. v. Imperial Development Corporation, supra note 9, at 931.

July 27, 2015

N O T I C E O F J U D G M E N T
Sirs / Mesdames:

Please take notice that on July 6, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 27, 2015 at 11:30 a.m.

(SGD.)
WILFREDO V. LAPITAN
Division Clerk of Court

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