GENTLE SUPREME PHILIPPINES, INC., PETITIONER, VS. RICARDO F. CONSULTA, RESPONDENT.

G.R. No. 183182. September 01, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the service of summons on a corporation and its officers, allegedly done improperly, resulting in the failure of the trial court to acquire jurisdiction over the persons of the defendants and in the nullity of its proceedings.

The Facts and the Case

On September 29, 2005 petitioner Gentle Supreme Philippines, Inc. (GSP) filed a collection case with application for a writ of preliminary attachment[1] against Consar Trading Corporation (CTC), its president, respondent Ricardo Consulta (Consulta), and its vice-president, Norberto Sarayba (Sarayba) before the Regional Trial Court (RTC) of Pasig City, Branch 68, in Civil Case 70544. GSP alleged that CTC, through Consulta and Sarayba, bought certain merchandise from it but refused to pay for them.

Before summons could be served, the RTC issued a writ of preliminary attachment[2] against the defendants after GSP filed the required bond.[3] Afterwards, the RTC issued summons against the defendants.

On October 11, 2005 as the sheriff failed to serve the summons and copies of the complaint on any of CTC's authorized officers as well as on Consulta and Sarayba, he left copies of such documents with Agnes Canave (Canave) who, according to the sheriff's return,[4] was Sarayba's secretary and an authorized representative of both Sarayba and Consulta.

None of the defendants filed an answer to the complaint. Thus, upon motion,[5] on November 18, 2005 the RTC declared them in default[6] and proceeded to hear GSP's evidence ex parte. Meanwhile, the sheriff attached a registered land[7] belonging to Consulta.[8] After trial, the RTC ruled that having defrauded GSP, defendants CTC, Consulta, and Sarayba were solidarily liable for the value of the supplied goods plus attorney's fees and costs of the suit.[9] And upon motion, on January 25, 2006 the RTC issued a writ of execution against the defendants.[10]

On June 9, 2006 respondent Consulta filed a petition for annulment of the RTC decision before the Court of Appeals (CA) in CA-G.R. SP 94817.[11] He alleged 1) that he found out about the case against him only on May 19, 2006 when he received a notice of sale on execution of his house and lot in Marikina City; and 2) that he was not properly served with summons because, although his address stated in the complaint was his regular place of business, Canave, who received the summons, was not in charge of the matter.

Consulta invoked the Court's ruling in Keister v. Judge Navarro,[12] that "the rule (on substituted service) presupposes that such relation of confidence exists between the person with whom the copy is left and the

defendant and, therefore, assumes that such person will deliver the process to defendant or in some way give him notice thereof." Consulta claimed that Canave was only Sarayba's secretary. Thus, neither the sheriff nor the RTC had basis for assuming that Canave would find a way to let Consulta know of the pending case against him. Consulta concluded that the RTC did not acquire jurisdiction over his person.

In its answer to the petition,[13] GSP insisted on the validity of the service of summons on Consulta. Also, assuming that summons was not properly served, Consulta's ignorance was contrived. His knowledge of the case against him may be proved by the following circumstances:

1. On February 25, 2006 CTC faxed GSP a letter proposing a schedule of payment for the adjudged amounts in the RTC decision. Admittedly, it was only Sarayba who signed the letter. By the rules of evidence, however, the act and declaration of a joint debtor is binding upon a party.[14] This means that Sarayba's knowledge and admission of the case and the defendants' corresponding liability to GSP was binding on Consulta. Besides, Consulta, together with Sarayba, signed the postdated checks as partial payment of CTC's obligation to GSP;

2. The RTC's sheriff garnished CTC's bank accounts on the day the summons was served. As company president, it was incredulous that Consulta was unaware of the garnishment and the reason for it;

3. Consulta admitted that CTC was properly served with summons through Canave. By that statement, it can be deduced that Canave was in charge of the office, Consulta's regular place of business, signifying proper service of the summons on him.

On March 18, 2008 the CA rendered a decision, holding that the RTC sheriff did not properly serve summons on all the defendants. It ordered the remand of the case to the trial court, enjoining it to take steps to insure the valid service of summons on them.[15]

Respondent Consulta filed a motion for partial reconsideration of the decision but the CA denied it for being late. Petitioner GSP also filed a motion for reconsideration[16] which the CA denied on May 29, 2008 for lack of merit,[17] hence, this petition.

The Issue Presented

The sole issue presented in this case is whether the CA correctly ruled that summons had not been properly served on respondent Consulta with the result that the RTC did not acquire jurisdiction over his person and that the judgment against him was void.

The Ruling of the Court

First of all, only Consulta brought an action for the annulment of the RTC decision. CTC and Sarayba did not. Consequently, the CA had no business deciding whether or not the latter two were properly served with summons. The right to due process must be personally invoked and its circumstances specifically alleged by the party claiming to have been denied such. [18]

Second, there is valid substituted service of summons on Consulta at his place of business with some competent person in charge thereof. According to the sheriff's return, which is prima facie evidence of the facts it states,[19] he served a copy of the complaint on Canave, an authorized representative of both Consulta and Sarayba.[20] Besides Consulta's bare allegations, he did not present evidence to rebut the presumption of regularity on the manner that the sheriff performed his official duty.[21] Nor did Consulta present clear and convincing evidence that Canave was not competent to receive the summons and the attached documents for him.

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In fact, in his petition for annulment of judgment, Consulta said that CTC had been apprised of the civil action through Canave.[22] In other words, Canave was a person charged with authority to receive court documents for the company as well as its officers who held office in that company. Absent contrary evidence, the veracity of the return's content and its effectiveness stand.

Further, this Court has ruled that "it is not necessary that the person in charge of the defendant's regular place of business be specifically authorized to receive the summons. It is enough that he appears to be in charge."[23] In this case, Canave, a secretary whose job description necessarily includes receiving documents and other correspondence, would have the semblance of authority to accept the court documents.

It is true that this Court emphasized the importance of strict and faithful compliance in effecting substituted service.[24] It must, however, be reiterated that when the rigid application of rules becomes a conduit for escaping one's responsibility, the Court will intervene to set things right according to the rules.[25]

Further, Consulta does not deny a) that summons had been properly served on Sarayba, his vice-president, through Canave at the company's office; b) that the summons on him was served on the same occasion also through Canave; c) that the sheriff had succeeded in garnishing his company's bank deposits; and d) that his company subsequently made an offer to settle the judgment against it. The Court is not dumb as to believe that Consulta became aware of the suit only when the sheriff served a notice of execution sale covering his house and lot.

WHEREFORE, premises considered, the Court REVERSES the Court of Appeals' Decision in CA-G.R. SP 94817 dated March 17, 2008 and REINSTATES the Regional Trial Court's Decision in Civil Case 70544 dated December 14, 2005.

SO ORDERED.

Carpio, Nachura, Bersamin,[*] and Mendoza, JJ., concur.

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[*] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per Special Order No. 882 dated August 31, 2010.

[1] Rollo, pp. 55-66.

[2] Id. at 187-191.

[3] Id. at 191.

[4] Id. at 69.

[5] Id. at 135-136.

[6] Id. at 140; penned by Judge Santiago G. Estrella.

[7] Covered by TCT 250345.

[8] Rollo, pp. 230-232.

[9] Id. at 266-269.

[10] Id. at 271.

[11] Id. at 74-85.

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[12] 167 Phil. 567 (1977).

[13] Rollo, pp. 90-109.

[14] RULES OF COURT, Rule 130, Section 29: The act or declaration of a partner or agent of the party within the scope of his authority and during the existence of the partnership or agency, may be given in evidence against such party after the partnership or agency is shown by evidence other than such act or declaration. The same rule applies to the act or declaration of a joint owner, joint debtor, or other person jointly interested with the party.

[15] Rollo, pp. 41-49.

[16] Id. at 174-184.

[17] Id. at 51.

[18] See San Pedro v. Ong, G.R. No. 177598, October 17, 2008, 569 SCRA 767, 783.

[19] Guanzon v. Arradaza, G.R. No. 155392, December 6, 2006, 510 SCRA 309, 318, citing Aboitiz International Forwarders, Inc. v. Court of Appeals, G.R. No. 142272, May 2, 2006, 488 SCRA 492, 506-507; Rubia v. Government Service Insurance System, 476 Phil. 623, 635 (2004); Spouses Madrigal v. Court of Appeals, 377 Phil. 345, 352 (1999).

[20] Rollo, p. 69.

[21] Guanzon v. Arradaza, supra note 19.

[22] Rollo, p. 74.

[23] Guanzon v. Arradaza, supra note 19, citing Gochangco v. CFI of Negros Occidental, 241 Phil. 48, 61 (1988).

[24] See Robinson v. Miralles, G.R. No. 163584, December 12, 2006, 510 SCRA 678, 684, citing Paluwagan ng Bayan Savings Bank v. King, 254 Phil. 56, 58 (1989), [citing Arevalo v. Quilatan, 202 Phil. 256, 261 (1982) and Keister v. Judge Navarro, supra note 12, at 573].

[25] Robinson v. Miralles, supra note 24; Arevalo v. Quilatan, supra note 24, at 262; Keister v. Judge Navarro, supra note 12, at 574.

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