

7107 ISLANDS PUBLISHING, INC., PETITIONER, VS. THE HOUSE PRINTERS CORPORATION, RESPONDENT.*G.R. No. 193420. October 14, 2015*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-193420/>**BRION, J.:***

This petition for review on certiorari seeks to reverse the 10 November 2009[1] and 17 August 2010[2] resolutions of the Court of Appeals (CA) in CA-G.R. UDK-SP No. 6325. The CA dismissed the petitioner's petition for certiorari challenging the 30 January 2009 and 29 June 2009 orders of the Regional Trial Court of Quezon City (RTC), Branch 221, in Civil Case No. Q-06-58473.[3] This RTC ruling, in turn, denied its motion to dismiss.

ANTECEDENTS

On 25 July 2006, respondent The House Printers Corporation (House Printers) filed a complaint for a sum of money and damages against the 7107 Islands Publishing, Inc. (7107 Publishing) before the RTC. House Printers alleged that 7107 Publishing refused to pay for PHP 1,178,700.00 worth of magazines it purchased in 2005. The complaint was docketed as Civil Case No. Q-06-58473.

On 1 August 2006, Manuel S. Paguyo, Sheriff IV, served the summons and a copy of the complaint on 7107 Publishing through its Chief Accountant Laarni Milan. Sheriff Paguyo explained on his return that the President and the in-house counsel were not at the office when he arrived so he served the summons on the highest ranking officer.

On 16 August 2006, 7107 Publishing filed a motion to dismiss on the ground that the RTC failed to acquire jurisdiction over its person. 7107 Publishing argued that if the defendant was a corporation, service of summons could only be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel pursuant to Rule 14, Section 11 of the Rules of Court. Petitioner further argued that this was an exclusive list, citing *E.B. Villarosa & Partner Co., Ltd v. Benito*[4] and *Delta Motor Sales Corporation v. Mangosing*[5]

On 4 September 2006, House Printers filed its opposition to petitioner's motion to dismiss. House Printers argued that there was substantial compliance with the requirement of service, citing *G&G Trading Corporation v. Court of Appeals*[6] and *Millenium Industrial Commercial Corporation v. Tan*.[7]

On 30 January 2009, the RTC denied the motion to dismiss for lack of merit. The RTC held that there was substantial compliance with the rule on service of summons and directed the petitioner to file its answer within five days from receipt of the denial.

On 16 March 2009, 7107 Publishing moved for the reconsideration of the denial. It reiterated that Rule 14, Section 11 is an exclusive list that requires strict compliance.

On 29 June 2009, the RTC denied the motion for reconsideration. It held that although a Chief Accountant was not included in the enumeration under Rule 14, Section 11, Chief Accountant Milan was able to turn over the

summons and the complaint to the defendants; therefore, the purpose of Rule 14 was attained. The petitioner received a copy of the order on 4 August 2009.

On 2 October 2009, 7107 Publishing filed a petition for certiorari before the CA against the 30 January 2009 and 29 June 2009 orders of the RTC. The petition was filed by registered mail.

On 7 October 2009, 7107 Publishing manifested before the CA that it had filed a petition for certiorari on 2 October 2009.

On 10 November 2009, the CA dismissed the petition outright because the petitioner failed to pay the docket and the other legal fees.

On 18 December 2009, 7107 Publishing moved for the reconsideration of the dismissal. It explained that: (1) it was constrained to file the petition by registered mail on 2 October 2009, prior to the last day of the reglementary period; (2) on 7 October 2009, petitioner's counsel went to the RTC to give an advance copy of the petition and pay the docket and other lawful fees; (3) however, the court personnel at the receiving section refused to accept payment; (4) instead, the court personnel instructed the petitioner to file a manifestation that the petition was filed by registered mail then wait until the CA receives and docket the petition, to avoid double docketing and double payment; (5) the petitioner complied and was instructed by the Civil Cases Section to wait for a notice from the CA to pay the docket fees; (6) petitioner relied in good faith on the court personnel's advice, but the notice to pay never arrived; (7) instead, the petitioner received the 10 November 2009 order of dismissal on 14 December 2009. The petitioner prayed for the CA to allow him to pay the required fees and to give due course to the petition.

On 17 August 2010, the CA denied reconsideration. It held that even if the court personnel refused to accept the petitioner's tender of payment, it could have simply paid the required fees by postal, money order.

On 8 October 2010, 7107 Publishing filed the present petition for review on certiorari.

THE PETITION

The petitioner argues: (1) that the RTC committed grave abuse of discretion when it denied its motion to dismiss because the RTC did not acquire jurisdiction over its person; and (2) that the CA was not justified in dismissing its petition for certiorari for nonpayment of the required fees because of the court personnel's refusal to accept its tender of payment on four separate occasions. The petitioner begs this Court to brush aside any procedural barriers and give due course to its petition.

In its Comment dated 16 May 2011, the respondent maintains: (1) that the petitioner did not suffer any undue prejudice from the service of summons on its accountant; and (2) that the petitioner failed to substantiate its allegations that court personnel refused his tender of payment four times.

OUR RULING

We deny the petition for lack of merit.

Rule 14 of the Rules of Court provides:

SEC. 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. (emphasis supplied)

We have long established that this enumeration is an exclusive list under the principle of *expresso unius est exclusio alterius*.^[8] Under the present Rules of Court, the rule of substantial compliance invoked by the

respondent is no longer applicable. To quote our decision in *Sps. Mason v. Court of Appeals*:

The question of whether the substantial compliance rule is still applicable under Section 11, Rule 14 of the 1997 Rules of Civil Procedure has been settled in *Villarosa* which applies squarely to the instant case. In the said case, petitioner E.B. Villarosa & Partner Co. Ltd. (hereafter Villarosa) with principal office address at 102 Juan Luna St., Davao City, and with branches at 2492 Bay View Drive, Tambo, Paranaque, Metro Manila, and Kolambog, Lapasan, Cagayan de Oro City, entered into a sale with development agreement with private respondent Imperial Development Corporation. As Villarosa failed to comply with its contractual obligation, private respondent initiated a suit for breach of contract and damages at the Regional Trial Court of Makati. Summons, together with the complaint, was served upon Villarosa through its branch manager at Kolambog, Lapasan, Cagayan de Oro City. Villarosa filed a Special Appearance with Motion to Dismiss on the ground of improper service of summons and lack of jurisdiction. The trial court denied the motion and ruled that there was substantial compliance with the rule, thus, it acquired jurisdiction over Villarosa. The latter questioned the denial before us in its petition for certiorari. We decided in Villarosa's favor and declared the trial court without jurisdiction to take cognizance of the case. We held that there was no valid service of summons on Villarosa as service was made through a person not included in the enumeration in Section 11, Rule 14 of the 1997 Rules of Civil Procedure, which revised the Section 13, Rule 14 of the 1964 Rules of Court. We discarded the trial court's basis for denying the motion to dismiss, namely, private respondents' substantial compliance with the rule on service of summons, and fully agreed with petitioners' assertions that the enumeration under the new rule is restricted, limited and exclusive, following the rule in statutory construction that *expressio unius est exclusio alterius*. Had the Rules of Court Revision Committee intended to liberalize the rule on service of summons, we said, it could have easily done so by clear and concise language. Absent a manifest intent to liberalize the rule, we stressed strict compliance with Section 11, Rule 14 of the 1997 Rules of Civil Procedure.

Neither can herein petitioners invoke our ruling in *Millenium* to support their position for said case is not on all fours with the instant case. We must stress that *Millenium* was decided when the 1964 Rules of Court were still in force and effect, unlike the instant case which falls under the new rule. Hence, the cases cited by petitioners where we upheld the doctrine of substantial compliance must be deemed overturned by *Villarosa*, which is the later case.[9] (emphasis supplied)

Therefore, the petitioner's argument is meritorious; service of summons on an officer other than those enumerated in Section 11 is invalid.[10]

However, although the petition before the CA was meritorious, the petitioner failed to pay the required docket fees and other legal fees. The payment of docket fees within the prescribed period is mandatory for the filing of a petition for certiorari.[11] The court acquires jurisdiction over the case only upon the payment of the prescribed docket fees. The payment of the full amount of the docket fee is a condition sine qua non for jurisdiction to rest.

We agree with the respondent that the petitioner failed to substantiate his allegations that the Court of Appeals personnel refused his offer of payment four times. Moreover, these are factual allegations that we cannot entertain because we are not a trier of facts. Nevertheless, the petitioner pleads that technicalities be set aside in order to dispense substantial justice.

The payment of docket fees, like the rule of strict compliance in the service of summons, is not a mere technicality of procedure but is an essential requirement of due process. Procedural rules are not to be set aside simply because their strict application would prejudice a party's substantive rights. Like all rules, they must be observed. They can only be relaxed for the most persuasive of reasons where a litigant's degree of noncompliance with the rules is severely disproportionate to the injustice he is bound to suffer as a consequence.[12]

In the present case, the petitioner appeals to our sense of equity and justice to relax the procedural rules in his

favor because his petition for certiorari is meritorious. However, we cannot overlook the inequity of relaxing the procedural rules for the petitioner in CA-G.R. UDK-SP No. 6325 in order to dismiss the respondent's complaint in Civil Case No. Q-06-58473 for the Sheriffs noncompliance with the rule on the service of summons. If we will be equitable to the petitioner, then fairness demands that we must also be equitable to the respondent.

In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around.[13] As the petitioner itself said, the ends of justice would be best served if we do away with the technicalities as we dispense substantial justice. We thus believe that the best course of action under the circumstances is to allow the RTC to decide the case on the merits.

WHEREFORE, premises considered, we hereby DENY the petition for lack of merit. The Regional Trial Court of Quezon City, Branch 221 is DIRECTED to proceed with Civil Case No. Q-06-58473 and the petitioner is ORDERED to file its answer within five (5) days from receipt of this decision. No costs.

SO ORDERED.

Peralta,**] Del Castillo, Mendoza, and Leonen, JJ., concur.

[*] Designated as Acting Chairperson, per Special Order No. 2222 dated September 29, 2015.

[**] Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio, per Special Order No. 2223 dated September 29, 2015.

[1] Rollo, p. 133; penned by Associate Ramon M. Bato, Jr. and concurred in by Associate Justices Sixto C. Marella, Jr. and Noel G. Tijam.

[2] Id. at 142, penned by Associate Ramon M. Bato, Jr. and concurred in by Associate Justices Mario L. Guarina III and Noel G. Tijam.

[3] Rendered by Presiding Judge Jocelyn A. Solis-Reyes.

[4] G.R. No. 136426, August 6, 1999, 312 SCRA 65.

[5] G.R. No. L-41667, April 30, 1976, 70 SCRA 598.

[6] 242 Phil. 195(1988).

[7] G.R. No. 131714, February 28, 2000, 326 SCRA 563.

[8] Cathay Metal Corporation v. Laguna West Multi-Purpose Cooperative, Inc., G.R. No. 172204, 2 July 2014, 728 SCRA 482 citing Paramount Insurance Corp. v. A.C. Ordonez, 583 Phil. 321, 327 (2008); Dole Philippines, Inc. v. Hon. Quilala, G.R. No. 168723, 9 July 2008, 557 SCRA 433; Sps. Mason v. Court of Appeals, G.R. No. 144662, 13 October 2003, 413 SCRA 303, 311.

[9] Sps. Mason, supra note 8 citing E.B. Villarosa & Partner Co., Ltd. v. Judge Benito, 370 Phil. 921, 927-928 (1999) and Millenium Industrial Commercial Corporation v. Tan, 383 Phil. 468, 476-477 (2000).

[10] Cathay Metal Corporation, supra note 8.

[11] Julian v. Development Bank of the Philippines, G.R. No. 174193, 7 December 2011, 661 SCRA 745 citing Meatmasters International Corporation v. Lelis Integrated Development Corporation 492 Phil 698, 701(2005).

[12] Julian v. Development Bank of the Philippines, *supra* note 11.

[13] Sps. Espejo v. Ito, G.R. No. 176511, 4 August 2009, 595 SCRA 192, 204 cited in the Petition for Review on Certiorari, p. 31; see rollo, p. 40.

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