

**FBA AIRCRAFT, S.A. AND ITL, INC., PETITIONERS, VS. THE
HONORABLE SEGUNDO ZOSA, PRESIDING JUDGE, COURT OF FIRST
INSTANCE OF RIZAL, MAKATI STATION, BRANCH XXXVI, DELFIN
CANELAS AN...**

G.R. No. 58345. December 09, 1981

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

After consideration of the allegations, issues and arguments of the petition for mandamus with preliminary mandatory injunction and the urgent motion for release of the attached three aircraft and engines, respondents' comments thereon, and respondent court's subject Order of September 23, 1980 dismissing private respondent Summit Philippines Airways, Inc.'s complaint below 'for lack of jurisdiction over the persons of the defendant and the writ of attachment (is) dissolved' (Annex B, petition) and Order of November 10, 1980 (Annex C, petition) maintaining the attachment until its dismissal order is final (respondent having filed an appeal therefrom by record on appeal), the Court Resolved to DISMISS the petition for lack of clear showing by petitioners that they are entitled to the release of the attached aircraft.

Respondent court ruled in its aforesaid November 10, 1980 Order denying respondent-plaintiff's motion for reconsideration of the dismissal order of September 23, 1980 but maintaining the attachment until the dismissal of the complaint shall have become final (since petitioners-defendants are foreign corporations adjudged for the nonce to be "not doing business in the Philippines [and] plaintiff [respondent] would be completely helpless if these planes are pirated out of the Philippines") that respondent-plaintiff, as a result of its dismissal order, "has two options to pursue: (1) go to the proper appellate court for a ruling that is definite and definitive that a foreign corporation can be sued in the Philippines on the basis of an isolated transaction; or (2) the plaintiff may file anew a complaint asking for extra-territorial services of summons under Section 17, Rule 14 of the Rules of Court." (Record, p. 53)

In the interest of an expeditious disposition of cases and to avoid needless delays in their determination on the merits, the Court holds that it is unnecessary with reference to the first option to secure and await a definite ruling from the appellate court on the suability of petitioners-foreign corporations, prescinding from the ruling in *Facilities Management Corporation vs. Osa* (89 SCRA 131) that "(I)ndeed, if a foreign corporation, not engaged in business in the Philippines, is not barred from seeking redress from courts in the Philippines, a fortiori, that same corporation cannot claim exemption from being sued in Philippine courts for acts done against a person or persons in the Philippines," as underscored by petitioners' filing of the petition at bar and seeking redress from this Court. The question of respondent's appeal from the dismissal order is thus rendered moot.

As to respondent court's second option, the Court rules that it is equally unnecessary for respondent-plaintiff to file anew a complaint asking for extra-territorial service of summons upon petitioners-defendants. Petitioners-defendants' properties having been attached within the Philippines, extra-territorial service of

summons clearly may be effected under Rule 14, Section 17 and respondent court is DIRECTED to grant such leave for extraterritorial service of summons in the case below (without going through the ritual of "filing a new complaint"), as prayed for by respondent-plaintiff in the proceedings below and thereafter to proceed with due dispatch in the hearing and determination of the case on the merits.

SO ORDERED.

Makasiar, Fernandez, Guerrero, Melencio-Herrera and Plana, JJ., concur.

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