

**WANG LABORATORIES, INC. PETITIONER, VS. THE HONORABLE
RAFAEL T. MENDOZA, THEN PRESIDING JUDGE, REGIONAL TRIAL
COURT, BRANCH CXXXIV, MAKATI, METRO MANILA, THE
HONORABLE BERNARDO ...**

G.R. No. 72147. December 01, 1987

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-72147/>

PARAS, J.:

This is a petition for Certiorari, Prohibition and Mandamus with Preliminary Injunction, seeking: (1) to annul and set aside the order issued by the Regional Trial Court of Makati, Branch CXXXIV*, ruling that (a) petitioner had voluntarily submitted itself to the jurisdiction of the respondent court, and (b) granting respondents' Ex Abundante Cautela Motion for Leave to Effect Extraterritorial Jurisdiction; (2) to prohibit respondent Court from proceeding further in Civil Case No. 7183; and (3) to order the same Court to pass upon the legal and factual issues raised in petitioner's Motion to Dismiss.

The factual background of this case is as follows:

Petitioner is a corporation duly organized under the laws of the United States with principal address at One Industrial Avenue, Lowell, Massachusetts, U.S.A., engaged in the business of manufacturing and selling computers worldwide. In the Philippines, petitioner sells its products to EXXBYTE TECHNOLOGIES CORPORATION, hereinafter referred to as EXXBYTE, its exclusive distributor. EXXBYTE is a domestic corporation engaged in the business of selling computer products to the public in its own name for its own account (Petitioner's Brief, p. 2; Rollo, pp. 268-319).

Angara, Concepcion, Regala & Cruz Law Offices (hereinafter referred to as "ACCRALAW" for brevity) is a duly registered professional partnership (Rollo, p. 4).

On September 10, 1980, respondent ACCRALAW entered into a contract with EXXBYTE for acquisition and installation of a Wang 2200 US Integrated Information System at the former's office. As stipulated in the above-said contract, a letter of credit for US \$86,142.55 was thereafter opened by ACCRALAW in favor of petitioner herein to pay for the Wang 2200 US System. Sometime in May 1981, the hardware was delivered and installed by EXXBYTE in ACCRALAW's office (Rollo, p. 151).

On June 10, 1981, ACCRALAW and EXXBYTE entered into another contract for the development of a data processing software program needed to computerize the ACCRALAW office (petitioner's Brief, p. 2).

Subsequent thereto and for one reason or the other, the contract for the development of a data processing software program or ISLA was not implemented.

On May 7, 1984, ACCRALAW filed a complaint for breach of contract with damages, replevin and attachment against herein petitioner (Rollo, p. 152), in Civil Case No. 7183 of the Regional Trial Court, Makati (Petitioner's

Brief, p. 3).

On May 23, 1984, petitioner filed a Motion to Dismiss the complaint on the ground that there was improper service of summons, hence, the court below had not obtained jurisdiction over the person of the petitioner (Petitioner's Brief, p. 3).

On July 13, 1984, petitioner filed a Motion for Deposition by Oral Examination for the purpose of presenting testimonial evidence in support of its motion to dismiss. The respondent court thereafter ordered the taking of the deposition by way of oral examination.

On February 21, 1985, petitioner filed its reply to the opposition to motion to dismiss (Petitioner's Brief, p. 3).

On March 29, 1985, ACCRALAW filed an Ex-Abundante Cautela Motion for Leave to Effect Extraterritorial Service of Summons on petitioner.

In an order dated April 24, 1985, respondent Judge Mendoza, among others, granted the Ex-Abundante Cautela Motion to Effect Extraterritorial Service of Summons, denied the petitioner's motion to dismiss on the ground that it had voluntarily submitted itself to the jurisdiction of the court, and thus declined to consider the legal and factual issues raised in the Motion to Dismiss.

Hence, this petition.

In the resolution of October 7, 1985, the Second Division of this Court without giving due course to the petition resolved to require respondents to comment and to issue a temporary restraining order enjoining respondent Judge from further proceeding with Civil Case No. 7183 (Rollo, pp. 138-139).

On October 31, 1985, private respondents submitted their comment (Rollo, pp. 147-178). In the resolution of January 13, 1986, the Court resolved to give due course to the petition (Rollo, p. 187-A). In the resolution of February 5, 1986, the Court granted petitioner's motion to admit reply to comment and noted aforesaid reply. Petitioner submitted its brief on September 15, 1986 (Rollo, p. 268); the respondents, on November 15, 1986 (Rollo, p. 272).

Petitioner assigns the following errors:

I.

RESPONDENT JUDGE MENDOZA ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT PETITIONER HAD VOLUNTARILY SUBMITTED TO THE JURISDICTION OF THE COURT BELOW.

II.

RESPONDENT JUDGE MENDOZA ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT ACCRALAW CAN SERVE SUMMONS ON PETITIONER EXTRATERRITORIALLY.

III.

RESPONDENT JUDGE MENDOZA ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT HOLDING THAT THERE WAS IMPROPER SERVICE OF SUMMONS ON PETITIONER.

The petition is devoid of merit.

The only issue in this case is whether or not respondent Court has acquired jurisdiction over the person of the petitioner, a foreign corporation.

In its Motion to Dismiss, petitioner interposed that the court has no jurisdiction over its person primarily because it is a United States corporation with principal address at One Industrial Avenue, Lowell, Massachusetts, U.S.A., is not domiciled in the Philippines, does not have any office or place of business in the Philippines, is not licensed to engage and is not engaging in business here. EXXBYTE upon whom summons was served on behalf of this defendant is a local company entirely separate and distinct from and is not the representative of the defendant (Rollo, pp. 57-60).

Petitioner's contention is untenable. The issue is not novel in our jurisdiction.

There are three (3) modes of effecting service of summons upon private foreign corporations as provided for in Section 14, Rule 7 of the Rules of Court, to wit: (1) by serving upon the agent designated in accordance with law to accept service of summons; (2) if there is no resident agent, by service on the government official designated by law to that office; and (3) by serving on any officer or agent of said corporation within the Philippines (Far East Int'l. Import and Export Corp. v. Nankai Kogyo Co., Ltd., 6 SCRA 725 [1962]).

Summons intended for the petitioner was served on EXXBYTE at the 3rd. Floor, Zeta Building, 191 Salcedo Street, Legaspi Village, Makati, Metro Manila (Rollo, p. 57) as its duly authorized and exclusive representative and distributor in the Philippines (Rollo, p. 24 and P. 149). Petitioner opposed such service and filed a Motion to Dismiss on the ground of lack of jurisdiction on its person, being a foreign corporation not engaged in business in the Philippines. Evidence presented by private respondent however, shows that contrary to petitioner's allegations, the various public advertisements of WANG and EXXBYTE clearly show that Wang has appointed EXXBYTE, which is domiciled in the Philippines, as its authorized exclusive representative in this country. In fact, WANG represents that its office in the Philippines is EXXBYTE, while the letterhead of EXXBYTE and its invoices show that it is WANG's representative. (Rollo, p. 65). Moreover, in its Reply to Opposition to Motion to Dismiss, WANG itself admitted that it deals exclusively with EXXBYTE in the sale of its products in the Philippines (Rollo, pp. 79 and 154).

In any event, as previously stated, private respondent moved further, *ex abundante cautela*, for leave to effect extra-territorial service of summons on petitioner WANG. Private respondent presented to the Court documentary evidence proving that the defendant Wang has properties in the Philippines consisting of trademarks registered with the Philippine Patent Office and that WANG designated Rafael E. Evangelista of 638 Philippine Banking Building, Ayala Avenue, Makati, Metro Manila as its Resident Agent upon whom notice or process affecting the mark may be served. The same counsel represented petitioner in the oral deposition of Mr. Yeoh, Asia Controller for Wang Laboratories (Annex "S", Petition). Private respondent further showed that said trademarks have been judicially attached (Rollo, p. 110). Petitioner in its Rejoinder to ACCRALAW's Reply, prays for the issuance of an order holding in abeyance any and all proceedings relative to ACCRALAW's motion for leave of court to effect extraterritorial service of summons (Rollo, p. 155).

Petitioner insists on its argument that extra-judicial summons or any kind thereof cannot bind the petitioner inasmuch as it is not doing business in the Philippines nor is it licensed to do business in the country.

In the cases of *Mentholatum Co., Inc. v. Mangaliman* (72 Phil. 524 [1941] and *Topweld Manufacturing, Inc. v. Eced S.A. et al.*, 138 SCRA 118 [1985]), it was held that no general rule or governing principle can be laid down as to what constitutes doing or "engaging" or "trading" in business. Indeed each case must be judged in the light of its peculiar environmental circumstances; upon peculiar facts and upon the language of the Statute applicable (*Far East Int'l. Import Export Corp. v. Nankai Kogyo Co., Ltd.* (65 SCRA 725 [1975])).

Under the circumstances; petitioner cannot unilaterally declare that it is not doing business in the Philippines. In fact, it has installed, at least 26 different products in several corporations in the Philippines since 1976 (Respondent's Brief, Rollo, p. 272). It has registered its trade name with the Philippine Patents Office (ibid) and Mr. Yeoh who is petitioner's controller in Asia has visited the office of its distributor for at least four times where he conducted training programs in the Philippines (Oral Deposition, pp. 16; 22-23, Rollo, pp. 335; 341-342, Annex "S" to Petitioner's Brief). Wang has allowed its registered logo and trademark to be used by EXXBYTE (Pran Deposition, p. 23, Rollo, p. 342) and made it known that there exists a designated distributor in the Philippines as published in its advertisements.

Indeed it has been held that "where a single act or transaction of a foreign corporation is not merely incidental or casual but is of such character as distinctly to indicate a purpose to do other business in the State, such act constitutes doing business within the meaning of statutes prescribing the conditions under which a foreign corporation may be served with summons (Far East Int'l. Import and Export Corp. v. Nankai Kogyo Co. Ltd., 6 SCRA 725 [1962]).

Be that as it may, the issue on the suability of foreign corporation whether or not doing business in the Philippines has already been laid to rest. The Court has categorically stated that although a foreign corporation is not doing business in the Philippines, it may be sued for acts done against persons in the Philippines. The Court has ruled as follows:

"Indeed 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 (Facilities Management Corporation v. De la Osa, 89 SCRA 131 [1979]).

Furthermore, even though petitioner objects to the jurisdiction of the Court over its person, the fact that it alleged non-jurisdictional grounds in its pleadings indicates that it has waived lack of jurisdiction of the court.

As noted by the trial court, defendant Wang (petitioner herein) in its Motion to Dismiss sought affirmative reliefs requiring the exercise of jurisdiction, by praying: (1) for authority to take testimony by way of deposition upon oral examination; (2) for extension of time to file opposition to plaintiffs' motion to effect Extraterritorial Service of Summons; (3) to hold in abeyance any and all proceedings relative to plaintiffs' foregoing motion and (4) to consider as a mere scrap of paper plaintiff's motion to strike out Deposition (Rollo, p. 111).

In addition, the records show that petitioner also prayed for: (1) authority to reset date of taking of deposition; (2) admission of the formal stenographic notes and (3) suspension of time to file responsive pleadings, not to mention its various participation in the proceedings in the court other than for the purpose of objecting to lack of jurisdiction (Rollo, p. 169).

In fact, it is well settled that "A voluntary appearance is a waiver of the necessity of formal notice." Thus, it has been held that when the appearance is by motion for the purpose of objecting to the jurisdiction of the court over the person it must be for the sole and separate purpose of objecting to the jurisdiction of the Court. If the appearance is for any other purpose, the defendant is deemed to have submitted himself to the jurisdiction of the court. Such an appearance gives the court jurisdiction over the person (Flores v. Zurbito, 37 Phil. 746 [1918]). Clarifying further, the Court has likewise ruled that even though the defendant objects to the jurisdiction of the Court, if at the same time he alleges any non-jurisdictional ground for dismissing the action, the Court acquires jurisdiction over him (Far East International Import & Export Corporation v. Nankal Kogyo, Co., Ltd., 6 SCRA 725 [1962]).

PREMISES CONSIDERED, the petition is DISMISSED for lack of merit, with costs against the petitioner. The

temporary restraining order is hereby lifted immediately.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

* Presided over by Judge Rafael T. Mendoza; succeeded by Judge Bernardo Abesamis

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.