

**SPOUSES VIOLETA S. VENTURANZA AND ROMY VENTURANZA,
PETITIONERS, VS. HON. COURT OF APPEALS, HON. JUDGE
BERNARDO P. PARDO, PRESIDING JUDGE OF REGIONAL TRIAL
COURT OF MANILA, BRANC...**

G.R. No. 77760. December 11, 1987

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-77760/>

PADILLA, J.:

Petition for review on certiorari of the decision* of the Court of Appeals, dated 6 March 1987, in CA-G.R. No. SP-08971 entitled "Spouses Violeta S. Venturanza and Romy Venturanza, petitioners, vs. Hon. Judge Bernardo Pardo, et al., respondents", affirming the decision** of the Regional Trial Court of Manila, Branch XLIII.

On 22 May 1985, plaintiff Nieves Y. Senoran (now private respondent) filed a complaint against spouses Violeta S. Venturanza and Romy Venturanza (now petitioners) with the Metropolitan Trial Court of Manila, Branch XVII, docketed as Civil Case No. 109950, for collection of sums of money in the aggregate amount of P9,711.50, representing several loans evidenced by promissory notes which had become due and demandable but unpaid despite repeated demands.[1] On 10 June 1985, summons was issued against the petitioners and served on Augusto Soan, father of petitioner Victoria S. Venturanza, at 3412 B.A. Tan Street, Barrio Obrero, Tondo, Manila, the address of petitioners stated in the complaint. The sheriff's Return, states as follows[2]:

"I certify that on this date I served a copy of this Summons together with a copy of the corresponding Complaint on Violeta Venturanza and Romy Venturanza at the address designated herein/at _____ Manila, personally/thru Mr./Miss/Mrs. Augusto Soan, father, a person working/residing therein who is of sufficient age and discretion and/or duly authorized to receive services of this nature and who signed/but who, however, refused to sign for the receipt hereof, as evidenced by his/her/the latter's signature appearing on the face of this summons.

Manila, Philippines, June 10, 1985."

For failure of the petitioners to file their Answer, a decision dated 12 August 1985 was rendered by the court a quo based on the allegations of fact in the complaint, and ordering the petitioners to pay jointly and severally the private respondent the sum of P9,711.50 with interest thereon at the rate of twelve percent (12%) per annum from due date per promissory notes until fully paid, to pay P1,000.00 as attorney's fees and costs of suit[3]. Considering that, as per sheriff's Return, dated 17 August 1985, said decision could not be served upon the petitioners at 3412 B.A. Tan St., Barrio Obrero, Tondo, Manila, on the ground that they were no longer at said address, the same was served on 16 September 1985 upon Violeta S. Venturanza in her office at Asian Development Bank, Roxas Blvd., Pasay City[4].

On 22 September 1985, petitioners filed a "Motion to Set Aside Decision and to Declare Past Proceedings Null and Void for Lack of Jurisdiction", alleging that there had been no proper and valid service of summons upon them in accordance with either Section 7 or Section 8 of Rule 14 of the Rules of Court[5] and that the court a quo

never acquired jurisdiction over the person of the petitioners, considering that the address where the summons was served is the residence of Violeta S. Venturanza's father, Augusto Soan, and not the residence or dwelling house of the petitioners, and that since April 1985, petitioners had been already residing at Aurora Street, Pasay City[6]. In an order dated 20 October 1985, the court a quo denied the motion, for lack of merit, stating thus:

"The preponderance of evidence weighs heavily in favor of an affirmative resolution of the issue.

"In the affidavit of Deputy Sheriff, Jose L. Cruz, attached as Annex "A" of plaintiff's opposition to the motion under consideration, he positively states that upon his service at defendants' above-mentioned given address, he inquired from one Augusto Soan, who identified himself to be defendant's father whether defendants were residents of the place. Upon confirming that defendants were in fact residents thereat, Jose L. Cruz forthwith handed to said Augusto Soan the summons together with a copy of the complaint requesting the latter to serve the same upon defendants.

"The Telephone Directory of Asian Development Bank for February, 1984, attached and marked as Annex "B" of plaintiff's opposition clearly indicates therein that defendant Violeta S. Venturanza is a resident of 3412 B.A. Tan, Bo. Obrero, Tondo, Manila (Annex "B"). The Telephone Directory of the same Asian Development Bank, where defendant, Violeta S. Venturanza is employed for October, 1984 (Annex "C"), bears the same information (Annex "C-1"). Indeed the PLDT Telephone Directory for 1985-1986 (Annex "F") also bears a substantial identical information as to defendant, Violeta S. Venturanza's residence.

In the light of all the foregoing evidence indubitably showing that defendants have always been residents of 3412 B.A. Tan St., Bo. Obrero, Tondo, Manila up to the present, the bare allegation in defendants' motion that they have been residing at Aurora St., Pasay City since April 1985, unsupported by any other independent competent evidence, is, utmost (sic), self-serving, and devoid of any probative value.

WHEREFORE, let defendants' motion be, as it is hereby denied, for lack of merit.

SO ORDERED"[7].

On appeal to the Regional Trial Court of Manila, Branch XLIII, the appeal being docketed as Civil Case No. 86-34319, the decision of the court a quo was affirmed with a slight modification, i.e., lowering the amount of attorney's fees to P500.00[8]. On 6 March 1987, a petition for review was filed with the Court of Appeals. Said RTC decision was affirmed in toto[9]. Hence, this petition for review on certiorari.

The issues raised and to be resolved in this instance, are the following:

I. Whether or not the Metropolitan Trial Court validly acquired jurisdiction over the persons of the petitioners when the summons was served upon Augusto Soan, father of petitioner Violeta S. Venturanza at 3412 B.A. Tan St., Bo. Obrero, Tondo, Manila, which address is no longer the residence nor the place of business of petitioners.

II. Whether or not the provisions of Section 8, Rule 14 of the Rules of Court was legally complied with by the Sheriff in serving the summons upon the father of one of the petitioners[10].

The court a quo, in its findings of fact, reached the conclusion that the address at 3412 B.A. Tan St., Bo. Obrero, Tondo, Manila, where summons was served by the branch sheriff, Jose L. Cruz, was the place of residence of the petitioners, after the latter allegedly failed to submit any evidence to prove their allegation that they were no longer residents of said address and had transferred to 2511 Aurora St., Pasay City[11]. The court a quo relied heavily on what appeared in the 1984 Telephone Directory of Asian Development Bank, where defendant Violeta S. Venturanza is employed, in the PLDT Telephone Directory for 1985-1986, and the sheriff's affidavit dated 16 October 1985 stating that, upon inquiry from Augusto Soan on whether the defendants were residents of the above-said address, the latter confirmed the same[12].

It is the general rule that findings of fact of the Court of Appeals when supported by substantial evidence, are beyond this Court's power of review[13]. However, in the instant case, we cannot but consider that the address of defendant Victoria S. Venturanza found in the 1984 Asian Development Bank Directory and the PLDT Telephone Directory for 1985-86, together with the affidavit of the branch sheriff, are not sufficient to substantiate the findings of the court a quo that petitioners were bona fide residents of 3412 B.A. Tan St., Barrio Obrero, Tondo, Manila at the time summons was served on Augusto Soan.

There is no question, and in fact it was admitted by the petitioners, that in 1984 they were actual residents of 3412 B.A. Tan St., Barrio Obrero, Tondo, Manila and, as correctly reflected in the 1984 Asian Development Bank Directory. However, the change of their address, upon their transfer to Pasay City in April 1985, could not be reflected in the 1985-86 PLDT Telephone Directory, because this directory had already been printed and circulated to the public before their transfer in April 1985 to Aurora St. in Pasay City. Moreover, the copy of the contract of lease dated April 1985 between petitioner Romualdo Venturanza as lessee and Linda Galvez as lessor over an apartment unit located at 2511 Aurora St., Pasay City[14] and the affidavit of Augusto Soan dated 29 April 1986 stating that he never told the sheriff that the defendants were residing in his house at 3412 B.A. Tan St., Barrio Obrero, Tondo, Manila, sufficiently negate the conclusion of the court a quo[15].

Under Rule 14 of the Rules of Court, there are three (3) methods of service of summons in civil actions, namely: 1) personal service (Sec. 7); 2) substituted service (Sec. 8); and 3) service by publication[16]. Strict compliance with these modes of service is required in order that the court may acquire jurisdiction over the person of the defendant[17]. Service of summons upon the defendant is the means by which the court acquires jurisdiction over his person. This process is for the benefit of the defendant, and is intended to afford the latter an opportunity to be heard on the claim against him[18]. In the absence of valid waiver, trial and judgment, without such service, are null and void.

There is no question that the case at bar which is an action for collection of sum of money is an action in personam thereby requiring personal service of summons on the defendants.

"In an action strictly in personam, personal service of summons within the forum is essential to the acquisition of jurisdiction over the person of the defendant who does not voluntarily submit himself to the authority of the court". (Pantaleon vs. Asuncion, 105 Phil. 761; Sequito vs. Letrondo, 10 Phil. 1139).

It is only when a defendant can not be personally served with summons within a reasonable time that a substituted service may be availed of, the same to be effected in the following manner: a) by leaving copies of the summons at the defendants' dwelling house or residence, with some person of suitable age and discretion then residing therein, or b) by leaving the copies at defendant's office or regular place of business, with some competent person in charge thereof[19]. For a substituted service to be valid, summons served at the defendant's residence must be served at his residence at the time of such service and not at his former place of residence.

"The terms "dwelling house" or "residence" are generally held to refer to the time of service, hence it is not sufficient" to leave the copy at defendant's former dwelling house, residence, or place of abode, as the case may be, after his removal therefrom". They refer to the place where the person named in the summons is living at the time when the service is made, even though he may be temporarily out of the country at the time." (Keister v. Navarro, 77 SCRA 209, May 31, 1977)

It is further required by law that an effort or attempt should first be made to personally serve the summons and after this has failed, a substituted service may be caused upon the defendant, and the same must be reflected in the proof of service[20].

"The substituted service should be availed of only when the defendant cannot be served promptly in person.

Impossibility of prompt service should be shown by stating the efforts made to find the defendant personally and the failure of such efforts. The statement should be made in the proof of service. This is necessary because substituted service is in derogation of the usual method of service. It has been held that it is a method extraordinary in character, and hence may be used only as prescribed in the circumstances authorized by statute. Thus, the statutory requirements of substituted service must be followed strictly, faithfully, and any substituted service other than that authorized by the statute is considered ineffective". x x x (Arevalo vs. Quitalon, 166 SCRA 707)

Upon careful examination of the sheriff's Return in this case, dated 10 June 1985, which purports to serve as proof that summons had been served upon the defendants, together with a copy of the complaint, through Augusto Soan, no statement is made that an effort or attempt was exerted to personally serve the summons on the defendants and that the same had failed. In fact, said Return does not even indicate the address of the defendants to whom summons was supposed to have been served. The presumption of regularity in the performance of official functions by the sheriff is not applicable in this case where it is patent that the sheriff's return is defective.

WHEREFORE, the decision of the Court of Appeals is hereby REVERSED and SET ASIDE. The case is remanded to the court of origin for further proceedings, including a valid service of summons. No Costs.

SO ORDERED

Yap (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

* Penned by Justice Jorge S. Imperial with the concurrence of Justices Vicente V. Mendoza and Manuel C. Herrera.

** Rendered by Judge Bernardo P. Pardo

[1] Rollo, pp. 16-17

[2] Rollo, p. 15 (Annex A of the Petition)

[3] Rollo, pp. 16-17 (Penned by Judge Ernesto A. Madamba, Metropolitan Trial Court of Manila, Br. XVII)

[4] Rollo, p. 30

[5] Sections 7 and 8 of Rule 14 of the Rules of Court state:

SEC. 7. Personal service of summons. - The summons shall be served by handing a copy thereof to the defendant in person or, if he refuses to receive it, by tendering it to him.

SEC. 8. Substituted service. - If the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's dwelling house or residence with some person of suitable age and discretion then residing therein, (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.

[6] Rollo, 18-21

[7] Rollo, pp. 23-24

[8] Id., pp. 25-26

[9] Rollo, pp. 28-35

[10] Memorandum for Petitioners, Rollo, pp. 75-76

- [11] Order dated 29 October 1985, MTC of Manila, Branch XVII, Rollo, pp. 23-24
- [12] Affidavit of Jose L. Cruz, Rollo, p. 36
- [13] Rizal Cement Co., Inc., vs. Villareal, 135 SCRA 22, February 28, 1985
- [14] Annex H of the Petition, Rollo, p. 37
- [15] Rollo, p. 40
- [16] Rule of Court in the Phil. by Ruperto G. Martin, 1986 Ed., p. 485
- [17] Pantaleon vs. Asuncion, 105 Phil. 761; Sequito vs. Letrondo, 10 Phil. 1139
- [18] Keister v. Navarro, 77 SCRA 209, May 31, 1977
- [19] Section 8, Rule 14 of the Rules of Court
- [20] Ibid

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.