

## THIRD DIVISION

[ G.R. No. 177007, July 14, 2009 ]

**SANSIO PHILIPPINES, INC., PETITIONER, VS. SPOUSES ALICIA  
AND LEODEGARIO MOGOL, JR., RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Challenged in this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court are the Decision<sup>[2]</sup> dated 21 November 2006 and the Resolution<sup>[3]</sup> dated 12 March 2007 of the Court of Appeals in CA-G.R. SP No. 70029. The assailed Decision reversed and set aside the Order<sup>[4]</sup> dated 18 January 2002 of the Regional Trial Court (RTC) of Manila, Branch 33, in Civil Case No. 01-101267, which dismissed the Petition for *Certiorari*, Prohibition and/or Injunction filed by herein respondent spouses Alicia and Leodegario Mogol, Jr. against herein petitioner Sansio Philippines, Inc. and Judge Severino B. de Castro, Jr. of the Metropolitan Trial Court (MeTC) of Manila, Branch 25. The assailed Resolution of the Court of Appeals denied the Motion for Reconsideration of its earlier Decision.

Petitioner Sansio Philippines, Inc. is a domestic corporation that is engaged in the business of manufacturing and selling appliances and other related products.

On 12 July 2000, petitioner filed a Complaint for Sum of Money and Damages<sup>[5]</sup> against respondent spouses Mogol before the MeTC of Manila. The case was docketed as Civil Case No. 167879CV and was raffled to Branch 25 of said court.

Petitioner stated in the Complaint that respondent spouses Alicia and Leodegario Mogol, Jr. were the owners and managers of MR Homes Appliances, with residence at 1218 Daisy St., Employee Village, Lucena City, where summons and other written legal processes of the court may be served. Petitioner further alleged that on 15 November 1993 and 27 January 1994, respondent spouses Mogol purchased from petitioner air-conditioning units and fans worth P217,250.00 and P5,521.20, respectively. Respondent spouses Mogol apparently issued postdated checks as payment therefor, but said checks were dishonored, as the account against which the checks were drawn was closed. Respondent spouses Mogol made partial payments, leaving a balance of P87,953.12 unpaid. Despite several demands by petitioner, respondent spouses Mogol failed to settle their obligation. Thus, petitioner prayed that respondent spouses Mogol be ordered to pay the former, jointly and severally, the amount of P87,953.12, with legal interest; as well as attorney's fees in the sum of twenty-five (25%) percent of the amount collectible, plus P2,000.00 for every appearance in court; and costs of suit.

On 3 October 2000, at the request of herein petitioner, the process server of the MeTC of Manila served the summons<sup>[6]</sup> and the copy of the complaint on respondent

spouses Mogol at the courtroom of the MeTC of Manila, Branch 24. Respondent spouses were in the said premises, as they were waiting for the scheduled hearing of the criminal cases filed by petitioner against respondent Alicia Mogol for violations of Batas Pambansa Blg. 22. Upon being so informed of the summons and the complaint, respondent spouses Mogol referred the same to their counsel, who was also present in the courtroom. The counsel of respondent spouses Mogol took hold of the summons and the copy of the complaint and read the same.<sup>[7]</sup> Thereafter, he pointed out to the process server that the summons and the copy of the complaint should be served only at the address that was stated in both documents, *i.e.*, at 1218 Daisy St., Employee Village, Lucena City, and not anywhere else. The counsel of respondent spouses Mogol apparently gave back the summons and the copy of the complaint to the process server and advised his clients not to obtain a copy and sign for the same. As the process server could not convince the respondent spouses Mogol to sign for the aforementioned documents, he proceeded to leave the premises of the courtroom.

On 4 October 2000, the process server of the MeTC of Manila issued a Return on Service of Summons,<sup>[8]</sup> declaring that:

#### RETURN ON SERVICE OF SUMMONS

This is to certify that on October 3, 2000, **the undersigned tried to serve a copy of the Summons issued by the Court in the above-entitled case together with a copy of Complaint upon defendant Leodegario Mogol[, ] Jr. and Alicia Mogol** doing business under the name/style of "Mr. Homes Appliance" (sic) **at MTC (sic) Branch 24 Ongpin (sic) (courtroom) as requested by plaintiff counsel, but failed for the reason that they refused to received (sic) with no valid reason at all.**

The original and duplicate copies of the Summons are hereby respectfully returned, (sic) **UNSERVED.**

Manila, Philippines, October 4, 2000.

(signed)  
ALFONSO S. VALINO  
Process Server (Emphases ours.)

#### **Motion to Declare in Default**

On 6 December 2000, petitioner filed a **Motion to Declare [Respondents] in Default.**<sup>[9]</sup> Petitioner averred that the summons and the copy of the complaint were already validly served upon the respondent spouses Mogol at the courtroom of the MeTC, Branch 24, which they refused to accept for no valid reason at all. From the date of said service up to the time of the filing of the above-stated motion, respondent spouses Mogol had yet to file any responsive pleading. Petitioner, thus, prayed that judgment be rendered against respondent spouses Mogol, and that the relief prayed for in its Complaint be granted.

On 15 December 2000, through a special appearance of their counsel, respondent spouses Mogol filed an Opposition<sup>[10]</sup> to the Motion to Declare [Respondents] in Default. They posited that Section 3, Rule 6<sup>[11]</sup> of the Rules of Court requires that the complaint must contain the names and residences of the plaintiff and defendant. Therefore, the process server should have taken notice of the allegation of the complaint, which referred to the address of respondent spouses Mogol wherein court processes may be served. If such service, as alleged in the complaint, could not be complied with within a reasonable time, then and only then may the process server resort to substituted service. Respondent spouses Mogol further averred that there was no quarrel as to the requirement that the respondents must be served summons in person and, if they refused to receive and sign for it, by tendering it to them. They merely reiterated that the service should have been effected at the respondent spouses' residential address, as stated in the summons and the copy of the complaint.

On 6 April 2001, the MeTC of Manila, Branch 25, issued an Order,<sup>[12]</sup> the *fallo* of which provides:

WHEREFORE, premises considered, **the Motion to Declare [Respondents] in Default dated December 5, 2000 filed by counsel for [petitioner] is hereby granted.** ACCORDINGLY, [respondents] Leodegario Mogol, Jr. and Alicia Mogol are hereby declared in default and [petitioner] is hereby allowed to present its evidence ex-parte (sic) before the Branch Clerk of Court on May 25, 2001 at 8:30 a.m. (Emphasis ours.)

The MeTC of Manila, Branch 25 ruled that Section 6, Rule 14<sup>[13]</sup> of the Rules of Court does not specify where service is to be effected. For obvious reasons, because service of summons is made by handing a copy thereof to the defendant in person, the same may be undertaken wherever the defendant may be found. Although the Return on the Service of Summons indicated that the original and the duplicate copies thereof were returned "UNSERVED," the same could not be taken to mean that respondent spouses Mogol had not yet been served with summons. That allegation in the return was clearly prompted by the statement in the first paragraph thereof that respondents spouses Mogol "refused to received (sic) [the summons and the copy of the complaint] with no valid reason at all." Respondent spouses Mogol were, thus, validly served with summons and a copy of the complaint. For failing to file any responsive pleading before the lapse of the reglementary period therefor, the Motion to Declare [Respondents] in Default filed by petitioner was declared to be meritorious.

Respondent spouses Mogol filed a Motion for Reconsideration<sup>[14]</sup> on the above Order, but the same was denied by the MeTC of Manila, Branch 25, in an Order<sup>[15]</sup> dated 11 June 2001.

On 17 July 2001, respondent spouses Mogol filed a **Petition for Certiorari, Prohibition and/or Injunction**<sup>[16]</sup> before the RTC of Manila against Judge Severino B. de Castro, Jr. of the MeTC of Manila, Branch 25 and herein petitioner.

Said petition was docketed as **Civil Case No. 01-101267** and raffled to Branch 33 thereof.

Respondent spouses Mogol insisted there was no valid service of summons per return of the process server, which was binding on the MeTC judge, who did not acquire jurisdiction over the persons of respondent spouses. They contended that the MeTC of Manila, Branch 25, acted with grave abuse of discretion amounting to lack or excess of jurisdiction in declaring them in default in Civil Case No. 167879CV, thereby depriving them of their right to be heard with due process of law, despite their having a good defense against petitioner's complaint. Respondent spouses Mogol prayed that the Orders dated 6 April 2001 and 11 June 2001 of the MeTC of Manila, Branch 25, be declared null and void.

On 18 January 2002, the RTC of Manila, Branch 33, issued an Order, disposing of the petition in this wise:

WHEREFORE, viewed from the foregoing observations and findings, the present petition is hereby DISMISSED for lack of merit.<sup>[17]</sup>

The RTC of Manila, Branch 33, held that Section 6, Rule 14 of the Rules of Court does not mandate that summons be served strictly at the address provided by the plaintiff in the complaint. Contrarily, said provision states that the service of summons may be made wherever such is possible and practicable. Therefore, it did not matter much that the summons and the copy of the complaint in this case were served inside the courtroom of the MeTC of Manila, Branch 24, instead of the address at 1218 Daisy St., Employee Village, Lucena City. The primordial consideration was that the service of summons was made in the person of the respondent spouses Mogol in Civil Case No. 167879CV. Lastly, the RTC of Manila, Branch 33, did not find any error in the interpretation of the MeTC of Manila, Branch 25, that summons had indeed been served on respondent spouses Mogol. On the face of the Return on Service of Summons, it was unmistakable that the summons and the copy of the complaint were served on respondent spouses, and that they refused to receive the same for no valid reason at all.

Respondent spouses Mogol filed a **Notice of Appeal**<sup>[18]</sup> on the above-mentioned Order of the RTC of Manila, Branch 33, which was given due course. The appeal was docketed in the Court of Appeals as CA-G.R. SP No. 70029.

On 21 November 2006, the Court of Appeals rendered the assailed Decision in CA-G.R. SP No. 70029, the relevant portions of which read:

*We find the appeal meritorious.*

After a careful perusal of the records, We hold that there was no valid service of summons upon the [respondent] Mogol spouses in Civil Case No. 167879. Perforce, the MeTC [Branch 25] never acquired jurisdiction over them. We explain.

x x x x

In this case, it is indubitable that the [respondent] Mogol spouses, as defendants in Civil Case No. 167879, never received the summons against them, whether personally or by substituted service. **As stated earlier, the process server failed to effect personal service of summons against the [respondent] Mogol spouses at the courtroom of the MeTC of Manila, Branch 24, because the latter refused to receive it, arguing that the same should be served at their residence, and not anywhere else.**

Concomitant to the trial court's duty to bring the defendant within its jurisdiction by the proper service of summons is its duty to apprise the plaintiff, as in the case of [petitioner] Sansio, whether or not the said summons was actually served upon the defendant. The proof of service of summons (or the lack of it) alluded to by the rules is found in Sec. 4, Rule 14 of the *Revised Rules of Court*, to wit:

*SECTION 4. Return. - When the service has been completed, the server shall, within five (5) days therefrom, serve a copy of the return, personally or by registered mail, to the plaintiff's counsel, and shall return the summons to the clerk who issued it, accompanied by proof of service.*

**In this case, the process server's *Return of Service of Summons* states, in clear and unequivocal terms, that:**

***The original and duplicate copies of the Summons are hereby returned, UNSERVED.***

In the case of *Spouses Madrigal v. Court of Appeals* [G.R. No. 129955, 26 November 1999], it was held that the sheriff's certificate of service of summons is prima facie evidence of the facts therein set out. In the absence of contrary evidence, a presumption exists that a sheriff has regularly performed his official duties. To overcome the presumption arising from the sheriff's certificate, the evidence must be clear and convincing. **In the instant case, no proof of irregularity in the process server's return was shown by Sansio. A perusal of the said return readily shows that the summons was unserved upon the Mogol spouses. From the foregoing, We hold that the Mogol spouses were never in actual receipt of the summons in Civil Case 167879. Perforce, the trial court did not acquire jurisdiction over them.**

In one case, the Supreme Court ruled that the refusal of a defendant to receive the summons is a technicality resorted to in an apparent attempt to frustrate the ends of justice. It is precisely for this reason that the rules provide a remedy that, in case the defendant *refuses to receive and sign for it, [the same is served] by tendering it to him*. Moreover, even if tender of summons upon the defendant proves futile, the trial court may further resort to substituted service of summons, as provided under Sec. 7, Rule 14 of the *Revised Rules of Court*.