

FIRST DIVISION

[G.R. No. 167545, August 17, 2011]

**ATIKO TRANS, INC. AND CHENG LIE NAVIGATION CO., LTD.,
PETITIONERS, VS. PRUDENTIAL GUARANTEE AND ASSURANCE,
INC., RESPONDENT.**

DECISION

Where service of summons upon the defendant principal is coursed thru its co-defendant agent, and the latter happens to be a domestic corporation, the rules on service of summons upon a domestic private juridical entity^[1] must be strictly complied with. Otherwise, the court cannot be said to have acquired jurisdiction over the person of both defendants. And insofar as the principal is concerned, such jurisdictional flaw cannot be cured by the agent's subsequent voluntary appearance.

This Petition for Review on *Certiorari* assails the December 10, 2004 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 82547 which affirmed the April 8, 2003 Decision^[3] of the Regional Trial Court (RTC), Branch 150, Makati City. Said Decision of the RTC affirmed the August 6, 2002 Decision^[4] of the Metropolitan Trial Court (MeTC), Branch 63, Makati City, which disposed as follows:

WHEREFORE, judgment is rendered declaring defendants Cheng Lie Navigation Co., Ltd. and Atiko Trans, Inc. solidarily liable to pay plaintiff Prudential Guarantee & Assurance, Inc. the following amounts:

1. P205,220.97 as actual damages with interest of 1% per month from 14 December 1999 until full payment;
2. P10,000.00 as Attorney's fees; and
3. Costs of suit.

SO ORDERED.^[5]

Likewise assailed is the CA's Resolution^[6] dated March 16, 2005 which denied the Motion for Reconsideration of the said December 10, 2004 Decision.

Factual Antecedents

On December 11, 1998, 40 coils of electrolytic tinplates were loaded on board M/S Katjana in Kaohsiung, Taiwan for shipment to Manila. The shipment was covered by Bill of Lading No. KNMNI-15126^[7] issued by petitioner Cheng Lie Navigation Co., Ltd. (Cheng Lie) with Oriental Tin Can & Metal Sheet Manufacturing Co., Inc. (Oriental) as the notify party. The cargoes were insured against all risks per Marine Insurance Policy No. 20RN-18749/99 issued by respondent Prudential Guarantee and Assurance, Inc. (Prudential).

On December 14, 1998, M/S Katjana arrived in the port of Manila. Upon discharge of the cargoes, it was found that one of the tinplates was damaged, crumpled and dented on the edges. The sea van in which it was kept during the voyage was also damaged, presumably while still on board the vessel and during the course of the voyage.

Oriental then filed its claim against the policy. Satisfied that Oriental's claim was compensable, Prudential paid Oriental P205,220.97 representing the amount of losses it suffered due to the damaged cargo.

Proceedings before the Metropolitan Trial Court

On December 14, 1999, Prudential filed with the MeTC of Makati City a Complaint^[8] for sum of money against Cheng Lie and Atiko Trans, Inc. (Atiko). In addition to the above undisputed facts, Prudential alleged that:

1. Plaintiff (Prudential) is a domestic insurance corporation duly organized and existing under the laws of the Philippines with office address at Coyiuto House, 119 Carlos Palanca[,] Jr. St., Legaspi Village, Makati City;

2. Defendant Cheng Lie Navigation Co. Ltd., is [a] foreign shipping company doing business in the Philippines [thru] its duly authorized shipagent defendant Atiko Trans Inc. which is a domestic corporation duly established and created under the laws of the Philippines with office address at 7th Floor, Victoria Bldg., United Nation[s] Ave., Ermita, Manila, where both defendants may be served with summons and other court processes;

3. At all times material to the cause of action of this complaint, plaintiff was and still is engaged in, among others, marine insurance business; Whereas Defendant Cheng Lie Navigation Co. Ltd. was and still is engaged in, among others, shipping, transportation and freight/cargo forwarding business, and as such, owned, operated and/or chartered the ocean going vessel M/S "Katjana" as common carrier to and from any Philippine [port] in international trade [thru] its duly authorized shipagent defendant Atiko Trans Inc. (Both defendants are hereinafter referred to as the "CARRIER");

x x x x

9. Plaintiff, as cargo-insurer and upon finding that the consignee's insurance claim was in order and compensable, paid the latter's claim in the amount of P205,220.97 under and by virtue of the aforesaid insurance policy, thereby subrogating herein plaintiff to all the rights and causes of action appertaining to the consignee against the defendants;^[9]

On March 20, 2000, Prudential filed a Motion to Declare Defendant in Default,^[10] alleging among others that on March 1, 2000 a copy of the summons was served upon petitioners thru cashier Cristina Figueroa and that despite receipt thereof petitioners failed to file any responsive pleading. Acting on the motion, the MeTC

issued an Order^[11] declaring Cheng Lie and Atiko in default and allowing Prudential to present its evidence *ex-parte*.

On August 6, 2002, the MeTC rendered its judgment by default. Atiko then filed a Notice of Appeal^[12] dated November 4, 2002.

Proceedings before the Regional Trial Court and the Court of Appeals

In its Memorandum of Appeal,^[13] Atiko argued that Prudential failed to prove the material allegations of the complaint. Atiko asserted that Prudential failed to prove by preponderance of evidence that it is a domestic corporation with legal personality to file an action; that Cheng Lie is a private foreign juridical entity operating its shipping business in the Philippines thru Atiko as its shipagent; that Cheng Lie is a common carrier, which owns and operates M/S Katjana; that Prudential was subrogated to the rights of Oriental; and, that Atiko can be held solidarily liable with Cheng Lie.

Although assisted by the same counsel, Cheng Lie filed its own Memorandum of Appeal^[14] maintaining that the MeTC never acquired jurisdiction over its person.

On April 8, 2003, the RTC rendered its Decision dismissing the appeal and affirming the Decision of the MeTC. Atiko and Cheng Lie challenged the RTC Decision before the CA *via* a Petition for Review^[15] under Rule 42 of the Rules of Court but the appellate court affirmed the RTC's Decision.

Hence, this petition.

Issues

In their Memorandum,^[16] petitioners raised the following issues:

1. WHETHER X X X THE DECISION OF MAKATI [MeTC] WHICH WAS AFFIRMED BY MAKATI RTC AND THE COURT OF APPEALS IS NULL AND VOID FOR FAILURE TO ACQUIRE JURISDICTION OVER THE PERSONS OF THE PETITIONERS-DEFENDANTS CONSIDERING THAT THE SUMMONS WERE NOT PROPERLY SERVED ON THEM AS REQUIRED BY RULE 14 OF THE RULES OF COURT.
2. WHETHER X X X THE RESPONDENT-PLAINTIFF IS REQUIRED TO PROVE THE MATERIAL ALLEGATIONS IN THE COMPLAINT EVEN IN DEFAULT JUDGMENT OR WHETHER OR NOT IN DEFAULT JUDGMENT, ALL ALLEGATIONS IN THE COMPLAINT ARE DEEMED CONTROVERTED, HENCE, MUST BE PROVED BY COMPETENT EVIDENCE.
 - 2.1. WHETHER X X X RESPONDENT-PLAINTIFF IS OBLIGED TO PROVE ITS LEGAL PERSONALITY TO SUE EVEN IN DEFAULT JUDGMENT.
 - 2.2. WHETHER X X X RESPONDENT-PLAINTIFF IS OBLIGED TO PROVE THAT PETITIONER-DEFENDANT ATIKO IS THE SHIPAGENT

OF PETITIONER-DEFENDANT CHENG LIE EVEN IN DEFAULT JUDGMENT.

2.3. WHETHER X X X THE TESTIMONIES OF THE WITNESSES AND THE DOCUMENTARY EXHIBITS CAN BE CONSIDERED FOR PURPOSES OTHER THAN THE PURPOSE FOR WHICH THEY WERE OFFERED.

2.4. WHETHER X X X A MOTION TO DECLARE DEFENDANT IN DEFAULT ADDRESSED AND SENT TO ONLY ONE OF THE DEFENDANTS WOULD BIND THE OTHER DEFENDANT TO WHOM THE MOTION WAS NOT ADDRESSED AND NOT SENT.^[17]

Our Ruling

The petition is partly meritorious. We shall first tackle the factual matters involved in this case, then proceed with the jurisdictional issues raised.

Petitioners raised factual matters which are not the proper subject of this appeal.

Petitioners contend that the lower courts grievously erred in granting the complaint because, even if they were declared in default, the respondent still has the burden of proving the material allegations in the complaint by preponderance of evidence. Petitioners further argue that respondent miserably failed to discharge this burden because it failed to present sufficient proof that it is a domestic corporation. Hence, respondent could not possibly maintain the present action because only natural or juridical persons or entities authorized by law can be parties to a civil action. Petitioners also claim that respondent failed to present competent proof that Cheng Lie is a foreign shipping company doing business in the Philippines thru its duly authorized shipagent Atiko. Lastly, petitioners assert that respondent failed to prove that Cheng Lie is a common carrier which owned, operated and/or chartered M/S Katjana thru its duly authorized shipagent Atiko. Petitioners emphasize that there is no proof, testimonial or otherwise, which would support the material allegations of the complaint. They also insist that respondent's witnesses do not have personal knowledge of the facts on which they were examined.

Respondent, for its part, assails the propriety of the remedy taken by the petitioners. It posits that petitioners advanced factual matters which are not the proper subject of a petition for review on *certiorari*. Besides, the lower courts consistently held that the allegations in respondent's complaint are supported by sufficient evidence.

We agree with respondent.

A cursory reading of the issues raised readily reveals that they involve factual matters which are not within the province of this Court to look into. Well-settled is the rule that in petitions for review on *certiorari* under Rule 45, only questions of law can be raised. While there are recognized exceptions to this rule,^[18] none is present in this case. "[A]s a matter of x x x procedure, [this] Court defers and accords finality to the factual findings of trial courts, [especially] when such findings

were [affirmed by the RTC and the CA. These] factual determination[s], as a matter of long and sound appellate practice, deserve great weight and shall not be disturbed on appeal x x x. [I]t is not the function of the Court to analyze and weigh all over again the evidence or premises supportive of the factual holding of the lower courts."^[19]

MeTC properly acquired jurisdiction over the person of Atiko.

Petitioners also argue that the MeTC did not acquire jurisdiction over the person of Atiko as the summons was received by its cashier, Cristina Figueroa. They maintain that under Section 11, Rule 14 of the Rules of Court, when the defendant is a domestic corporation like Atiko, summons may be served only upon its president, general manager, corporate secretary, treasurer or in-house counsel.

We are not persuaded. True, when the defendant is a domestic corporation, service of summons may be made only upon the persons enumerated in Section 11, Rule 14 of the Rules of Court.^[20] However, jurisdiction over the person of the defendant can be acquired not only by proper service of summons but also by defendant's voluntary appearance without expressly objecting to the court's jurisdiction, as embodied in Section 20, Rule 14 of the Rules of Court, *viz*:

SEC. 20. *Voluntary appearance.* - The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance.

In the case at bench, when Atiko filed its Notice of Appeal,^[21] Memorandum of Appeal,^[22] Motion for Reconsideration^[23] of the April 8, 2003 Decision of the RTC, and Petition for Review,^[24] it never questioned the jurisdiction of the MeTC over its person. The filing of these pleadings seeking affirmative relief amounted to voluntary appearance and, hence, rendered the alleged lack of jurisdiction moot. In *Palma v. Galvez*,^[25] this Court reiterated the oft-repeated rule that "the filing of motions seeking affirmative relief, such as, to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, are considered voluntary submission to the jurisdiction of the court."

Moreover, petitioners' contention is a mere afterthought. It was only in their Memorandum^[26] filed with this Court where they claimed, for the first time, that Atiko was not properly served with summons. In *La Naval Drug Corporation v. Court of Appeals*,^[27] it was held that the issue of jurisdiction over the person of the defendant must be seasonably raised. Failing to do so, a party who invoked the jurisdiction of a court to secure an affirmative relief cannot be allowed to disavow such jurisdiction after unsuccessfully trying to obtain such relief.^[28]

It may not be amiss to state too that in our February 13, 2006 Resolution,^[29] we reminded the parties that they are not allowed to interject new issues in their memorandum.