

## THIRD DIVISION

[ G.R. No. 204759, November 14, 2018 ]

**PEOPLE'S GENERAL INSURANCE CORPORATION, PETITIONER,  
VS. EDGARDO GUANSING AND EDUARDO LIZASO,  
RESPONDENTS.**

### DECISION

**LEONEN, J.:**

As a general rule, personal service is the preferred mode of service of summons. Substituted service is the exception to this general rule. For the sheriff to avail of substituted service, there must be a detailed enumeration of the sheriffs actions showing that a defendant cannot be served despite diligent and reasonable efforts. These details are contained in the sheriffs return. Thus, the sheriffs return is entitled to a presumption of regularity. Courts may allow substituted service based on what the sheriffs return contains.<sup>[1]</sup>

Failure to serve summons means that the court did not acquire jurisdiction over the person of the defendant.<sup>[2]</sup> Absent proper service of summons, the court cannot acquire jurisdiction over the defendant unless there is voluntary appearance. The filing of an answer and other subsequent pleadings is tantamount to voluntary appearance.

This resolves a Rule 45 Petition for Review on Certiorari,<sup>[3]</sup> assailing the Court of Appeals December 10, 2012 Decision<sup>[4]</sup> in CA-G.R. CV No. 96720, which granted Edgardo Guansing (Guansing) and Eduardo Lizaso's (Lizaso) appeal<sup>[5]</sup> and set aside the Regional Trial Court January 28, 2010 Decision<sup>[6]</sup> and February 23, 2011 Order<sup>[7]</sup> in Civil Case No. 06115736.

On February 4, 2006, at around 9:45 a.m., Lizaso, Guansing's employee, was driving Guansing's truck along Legarda Street, Sampaloc, Manila when he hit the rear portion of Andrea Yokohama's (Yokohama) Isuzu Crosswind. The strong impact caused the Isuzu Crosswind to hit other vehicles, rendering it beyond repair.<sup>[8]</sup>

Yokohama's Isuzu Crosswind was insured with People's General Insurance Corporation. Yokohama filed a total loss claim under her insurance policy, which paid the full amount of P907,800.00 as settlement. Thus, People's General Insurance Corporation claimed to have been subrogated to all the rights and interests of Yokohama against Guansing.<sup>[9]</sup>

People's General Insurance Corporation sought from Guansing reimbursement of the total amount paid to Yokohama, less the salvage value of P470,000.00. Despite repeated demands, Guansing failed to reimburse the amount claimed.<sup>[10]</sup>

On August 28, 2006, People's General Insurance Corporation filed a Complaint for a sum of money and damages<sup>[11]</sup> against Guansing and Lizaso. The case was docketed as Civil Case No. 06115736 at Branch 41, Regional Trial Court, Manila City. The sheriff served the summons on Guansing's brother, Reynaldo Guansing.<sup>[12]</sup> The sheriff's return did not explain why summons was served on his brother instead of Guansing.<sup>[13]</sup>

The sheriffs return read:

#### SHERIFF'S RETURN

This is to certify:

1. That on September 20, 2006, I was able to served (sic) Summons, Complaint and its Annexes thereto attached, upon the defendant EDGARDO GUANSING at his given address in Barangay Tibagan, Bustos, Bulacan thru the assistance of Brgy. Kagawad Nestor Reyes and received by his brother REYNALDO GUANSING of sufficient discretion who acknowledge[d] the receipt hereof as evidence[d by] his signature.

. . . .

WHEREFORE, I respectfully return the original copy of Summons to the Honorable Court, DULY SERVED, to the defendant EDGARDO GUANSING . . . for its records and information.<sup>[14]</sup>

On September 27, 2006, Guansing filed a Motion to Dismiss<sup>[15]</sup> the complaint for lack of jurisdiction over his person. He alleged that he did not personally receive the summons. People's General Insurance Corporation argued that summons was properly served since substituted service was an alternative mode of service.<sup>[16]</sup>

In its October 11, 2006 Order,<sup>[17]</sup> the Regional Trial Court denied the Motion to Dismiss for lack of merit. On November 10, 2006, Guansing filed a Motion for Reconsideration<sup>[18]</sup> of the October 11, 2006 Order, which was also denied in the Regional Trial Court November 30, 2006 Order.<sup>[19]</sup> On January 28, 2007, Guansing filed a one (1)-page Answer<sup>[20]</sup> containing a general denial of the material allegations and causes of action in People's General Insurance Corporation's Complaint. He also reiterated that the Regional Trial Court had no jurisdiction over his person.<sup>[21]</sup>

The case was then set for pre-trial conference. On February 2, 2008, Guansing filed an Urgent Ex-Parte Motion for Postponement.<sup>[22]</sup> After several postponements by both parties, Guansing submitted his Pre-trial Brief.<sup>[23]</sup> dated March 8, 2008, where he again raised the Issue of lack of jurisdiction over his person.<sup>[24]</sup>

On December 5, 2008, People's General Insurance Corporation filed a Motion to Render Judgment on the Pleadings,<sup>[25]</sup> which was granted by the Regional Trial Court. In its January 28, 2010 Decision,<sup>[26]</sup> the Regional Trial Court ruled against

Guansing, and ordered him to pay People's General Insurance Corporation the remaining cost of the Isuzu Crosswind, attorney's fees, and costs of suit.<sup>[27]</sup> The dispositive portion of this Decision read:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendant Edgardo Guansing, ordering the latter to pay the former the following:

1. The sum of P437,800 for the reimbursement of the remaining cost of the Isuzu Crosswind plus twelve percent (12%) interest from August 28, 2006, the date of the filing of this case, until fully paid;
2. The sum of P50,000.00 as attorney's fees;
3. Costs of the suit.

SO ORDERED.<sup>[28]</sup>

On March 11, 2010, Guansing filed his Motion for Reconsideration,<sup>[29]</sup> where he reiterated his contention that the Regional Trial Court did not acquire jurisdiction over his person due to invalid service of summons. In its February 23, 2011 Order,<sup>[30]</sup> the Regional Trial Court denied Guansing's Motion for Reconsideration.

On March 8, 2011, Guansing filed an appeal<sup>[31]</sup> before the Court of Appeals. In a December 10, 2012 Decision,<sup>[32]</sup> the Court of Appeals ruled in Guansing's favor and held that the Regional Trial Court did not acquire jurisdiction over him because summons was improperly served on his brother. Moreover, the sheriff did not provide an explanation on why the summons was not personally served upon him. It further remanded the case to the Regional Trial Court. The dispositive portion of the Court of Appeals December 10, 2012 Decision read:

**WHEREFORE**, premises considered, the appeal is **GRANTED**. The January 28, 2010 Decision and the February 23, 2011 Order of the Regional Trial Court of Manila, Branch 41, in Civil Case No. 06-115736 are **SET ASIDE**. Let the case be **REMANDED** to the said trial court for further proceedings which shall include the valid service of summons.

**SO ORDERED.**<sup>[33]</sup> (Emphasis in the original)

On January 29, 2013, People's General Insurance Corporation filed a Petition for Review<sup>[34]</sup> before this Court.

The issues for this Court's resolution are as follows:

First, whether or not the Regional Trial Court acquired jurisdiction over the person of respondent Edgardo Guansing through service of summons; and

Second, whether or not respondent Edgardo Guansing, in filing his Answer and other subsequent pleadings, voluntarily submitted himself to the jurisdiction of the court.

Petitioner argues that the Court of Appeals incorrectly held that respondent's filing of an Answer and other subsequent pleadings did not amount to voluntary

appearance.<sup>[35]</sup> It also argues that *Garcia v. Sandiganbayan*,<sup>[36]</sup> cited by respondent, is inapplicable since it erroneously expanded the plain and simple meaning of "voluntary appearance" in Rule 14, Section 20 of the Rules of Court.<sup>[37]</sup>

In his Comment,<sup>[38]</sup> respondent Guansing asserts that petitioner is misleading this Court by raising the issue on voluntary appearance. He stresses that the sole issue is whether or not there was valid service of summons; thus, the Court of Appeals ruled correctly in reversing the Regional Trial Court January 28, 2010 Decision and February 23, 2011 Order.

By way of reply, petitioner alleges that contrary to respondent Guansing's assertions, the issue on voluntary appearance is very much related to the issue on service of summons, especially since he filed several pleadings and even sought affirmative reliefs.<sup>[39]</sup>

This Court finds the Petition meritorious.

## I

The rule requiring jurisdiction over the parties is based on due process. Due process consists of notice and hearing. Notice means that persons with interests in the subject of litigation are to be informed of the facts and the law on which the complaint or petition is based for them to adequately defend their interests. This is done by giving the parties notification of the proceedings. On the other hand, hearing means that the parties must be given an opportunity to be heard or a chance to defend their interests. Courts are guardians of constitutional rights, and therefore, cannot deny due process rights while at the same time be considered to be acting within their jurisdiction.<sup>[40]</sup>

Jurisdiction over the parties is the power of the courts to make decisions that are binding on them. Jurisdiction over complainants or petitioners is acquired as soon as they file their complaints or petitions, while jurisdiction over defendants or respondents is acquired through valid service of summons or their voluntary submission to the courts' jurisdiction.<sup>[41]</sup>

Violation of due process is a jurisdictional defect. Hence, proper service of summons is imperative. A decision rendered without proper service of summons suffers a jurisdictional infirmity. In the service of summons, personal service is the preferred mode. As a rule, summons must be served personally on a defendant.

Rule 14, Sections 6 and 7 of the Rules of Court provide:

Section 6. *Service in person on defendant.* - Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him.

Section 7. *Substituted service.* - If, for justifiable causes, 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 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.

This Court has consistently held that jurisdiction over a defendant is acquired upon a valid service of summons or through the defendant's voluntary appearance in court. In *Interlink Movie Houses Inc. et al. v. Court of Appeals et al.*,<sup>[42]</sup> this Court reiterated:

It is settled that jurisdiction over a defendant in a civil case is acquired either through service of summons or through voluntary appearance in court and submission to its authority. *In the absence of service or when the service of summons upon the person of the defendant is defective, the court acquires no jurisdiction over his person, and a judgment rendered against him is null and void.*

In actions *in personam*, such as collection for a sum of money and damages, the court acquires jurisdiction over the person of the defendant through personal or substituted service of summons.

Personal service is effected by handing a copy of the summons to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him . . .<sup>[43]</sup> (Emphasis supplied, citations omitted)

In the same case, this Court explained:

It is settled that resort to *substituted service is allowed only if, for justifiable causes, the defendant cannot be personally served with summons within a reasonable time.* In such cases, substituted service may be effected (a) by leaving copies of the summons at the defendant's 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 a competent person in charge. *Because substituted service is in derogation of the usual method of service, and personal service of summons is preferred over substituted service, parties do not have unbridled right to resort to substituted service of summons.*<sup>[44]</sup> (Emphasis supplied)

Sheriffs, in doing substituted service, must strictly comply with the prescribed requirements and circumstances authorized by the rules. In *Manotoc v. Court of Appeals*:<sup>[45]</sup>

#### (1) Impossibility of Prompt Personal Service

The party relying on substituted service or the sheriff must show that defendant cannot be served promptly or there is impossibility of prompt service. Section 8, Rule 14 provides that the plaintiff or the sheriff is given a "reasonable time" to serve the summons to the defendant in person, but no specific time frame is mentioned. "Reasonable time" is defined as "so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party." Under the Rules, the service of summons has no set period. However, when the court,