

## THIRD DIVISION

[ G.R. No. 183370, August 17, 2015 ]

**NATION PETROLEUM GAS, INCORPORATED, NENA ANG, MARIO ANG, ALISON A. SY, GUILLERMO G. SY, NELSON ANG, LUISA ANG, RENATO C. ANG, PAULINE T. ANG, RICKY C. ANG,<sup>[1]</sup> AND MELINDA ANG, PETITIONERS, VS. RIZAL COMMERCIAL BANKING CORPORATION, SUBSTITUTED BY PHILIPPINE ASSET GROWTH ONE, INC., RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This petition for review on *certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure (*Rules*) seeks to reverse and set aside the December 12, 2007 Decision<sup>[2]</sup> and June 17, 2008 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 98787, which affirmed the March 29, 2007 Order<sup>[4]</sup> of the Regional Trial Court (RTC), Branch 66, Makati City, in Civil Case No. 06-882, denying petitioners' *Special Appearance with Motion to Dismiss* for alleged improper service of summons.

On October 16, 2006, respondent Rizal Commercial Banking Corporation filed against petitioner corporation and its directors/officers a Complaint<sup>[5]</sup> for civil damages arising from estafa in relation to violations of the Trust Receipts Law. On October 26, 2006, after an *ex parte* hearing was conducted, respondent's prayer for a writ of preliminary attachment was granted and the corresponding writ was issued.<sup>[6]</sup> Thereafter, Sheriff Leodel N. Roxas served upon petitioners a copy of the summons, complaint, application for attachment, respondent's affidavit and bond, and the order and writ of attachment. The Sheriffs Report dated November 13, 2006 narrated:

The undersigned sheriff respectfully submits the following report to wit:

On 26 October 2006, [a] copy of Writ of Attachment dated 26 October 2006, issued by the Court in the above-entitled case was received by the undersigned for service and implementation.

On even date, the undersigned served the Summons, copy of [the] Complaint, application for attachment, the plaintiffs affidavit and bond, and the Order and Writ of Attachment, on the defendants Nation Petroleum Gas et al., at BPI Building, Rizal Street, Candelaria, Quezon. Said summons and all pertinent papers, upon telephone instruction of defendant Melinda Ang, were received by Claudia Abante, [defendants'] [Liaison] Officer, as evidenced by her signature at the original copy of Summons and Writ. I also served copies to other defendants at their given addresses, but they refused to acknowledge receipt thereof.

On the same day, at the instance of the plaintiff's counsel and representative, the undersigned levied the real properties of the defendants at the Register of Deeds of Lucena City, Makati City, Pasig City, Quezon City and the Register of Deeds of Manila. I also levied a property (plant equipment) in NPGI plant in Sariaya, Quezon. Copies of the notices of levy on attachment are hereto attached.

WHEREFORE, the original copies of the Summonses, Order, Writ of Attachment and all pertinent papers are hereby returned to the Court of origin for record and information.<sup>[7]</sup>

Petitioners filed through counsel a Special Appearance with Motion to Dismiss<sup>[8]</sup> on November 15, 2006. They asserted that the trial court did not acquire jurisdiction over the corporation since the summons was improperly served upon Claudia Abante (Abante), who is a mere liaison officer and not one of the corporate officers specifically enumerated in Section 11, Rule 14 of the Rules. Likewise, the individual petitioners argued that the sheriff and/or process server did not personally approach them at their respective address as stated in the Complaint. Neither did he resort to substituted service of summons, and that, even if he did, there was no strict compliance with Section 7, Rule 14 of the Rules. The Court's pronouncements in *Spouses Mason v. Court of Appeals*,<sup>[9]</sup> *E. B. Villarosa & Partner Co., Ltd. v. Judge Benito*,<sup>[10]</sup> *Laus v. Court of Appeals*,<sup>[11]</sup> and *Samartino v. Raon*<sup>[12]</sup> were invoked in praying for the dismissal of the complaint and the discharge of the writ of attachment.

Respondent countered in its Opposition with Motion to Declare Defendants in Default<sup>[13]</sup> that there was valid service of summons upon petitioners. With respect to the corporation, Abante received the summons upon the express authority and instruction of the corporate secretary, petitioner Melinda Ang (Ang). As regards the individual petitioners, the Sheriffs Report reflects that they were served "*at their given addresses, but they refused to acknowledge receipt thereof.*" Respondent stressed that said Report is prima facie evidence of the facts stated therein and that the sheriff enjoys the presumption of regularity in the performance of his official functions. In any case, it averred that, according to *Oaminal v. Castillo*,<sup>[14]</sup> petitioners already voluntarily submitted to the court's jurisdiction when they prayed for the discharge of the writ of attachment, which is an affirmative relief apart from the dismissal of the case.

A Reply with Comment/Opposition (to the motion to declare defendants in default)<sup>[15]</sup> was then filed by petitioners. In support of their contention that the court lacks jurisdiction over their persons, they submitted their Joint Affidavit<sup>[16]</sup> and the Affidavit<sup>[17]</sup> of Abante, claiming, among others, that they neither personally met the sheriff and/or the process server nor were handed a copy of the court documents; that Ang did not give Abante telephone instructions to receive the same; and that Abante did not receive any instruction from Ang. Petitioners further held that *Oaminal* finds no application in the instant case since they only filed one motion and that the additional relief prayed for, which is the discharge of the writ, is complementary to and a necessary consequence of a finding that the court has no jurisdiction over their persons. Instead, Our ruling in *Avon Insurance PLC v. Court of*

*Appeals*<sup>[18]</sup> was relied upon.

In its Rejoinder with Motion to Strike,<sup>[19]</sup> respondent stood firm in defending the court's jurisdiction. The denials of Ang and Abante were viewed as self-serving and could not prevail over the presumption of regularity which the sheriff enjoys as an officer of the court. Even assuming that the Sheriffs Return does not state in detail the fact that the summons was served upon the individual petitioners through substituted service, respondent asserted that this does not conclusively prove that such service is invalid because it may still be shown through extraneous evidence similar to the case of *BPI v. Spouses Evangelista*.<sup>[20]</sup>

On March 29, 2007, the RTC denied petitioners' motion to dismiss and respondent's motion to declare them in default. In upholding the jurisdiction of the court over the persons of petitioners and requiring them to file an Answer, the Order ratiocinated:

The very essence of service of summons is for the defendants to be aware of an existing suit against them and for them to file an answer or responsive pleading thereto. When corporate and individual defendants were served with summons through the [liaison] officer who received the same for and in their behalf as per instruction of defendant Melinda Ang, and when defendants filed a responsive pleading in the form of a Motion to Dismiss, the essence of service of summons was met and defendants are deemed to have ultimately received the summons despite their protestations. There is no reason for the Court to doubt the regularity of the Sheriffs service of summons as in fact its regularity is presumed. It bears stressing that defendants did not *per se* deny having received summonses. Perforce, they are challenging the manner of service of the same. Having ultimately received the summonses upon them and considering the rules on service of the same was substantially complied with, the Court finds no reason to deny the instant Motion to Dismiss.<sup>[21]</sup>

Petitioners elevated the jurisdictional issue to the CA *via* petition for *certiorari* and prohibition.<sup>[22]</sup> As afore-stated, the appellate court later dismissed the petition and denied the motion for reconsideration; hence, this petition raising the following issues for resolution:

I.

WHETHER OR NOT THE TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSON OF THE DEFENDANT CORPORATION BY SERVICE OF SUMMONS UPON ITS MERE EMPLOYEE.

II.

WHETHER OR NOT THE TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSONS OF THE INDIVIDUAL DEFENDANTS BY RESORTING TO SUBSTITUTED SERVICE OF SUMMONS DESPITE ABSENCE OF EARNEST EFFORTS ON THE PART OF THE SERVING OFFICER TO SERVE SUMMONS PERSONALLY.<sup>[23]</sup>

We deny.

Summons is a writ by which the defendant is notified of the action brought against him or her.<sup>[24]</sup> Its purpose is two-fold: to acquire jurisdiction over the person of the defendant and to notify the defendant that an action has been commenced so that he may be given an opportunity to be heard on the claim against him.<sup>[25]</sup> "[C]ompliance with the rules regarding the service of summons is as much an issue of due process as of jurisdiction. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of his defense. It is elementary that before a person can be deprived of his property, he should first be informed of the claim against him and the theory on which such claim is premised."<sup>[26]</sup>

Service of summons on domestic corporation, partnership or other juridical entity is governed by Section 11, Rule 14 of the *Rules*, which states:

SECTION 11. *Service upon domestic private juridical entity.* - When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.

When the defendant is a domestic corporation like herein petitioner, service of summons may be made only upon the persons enumerated in Section 11, Rule 14 of the *Rules*.<sup>[27]</sup> The enumeration of persons to whom summons may be served is restricted, limited and exclusive following the rule on statutory construction *expressio unius est exclusio alterius*.<sup>[28]</sup> Substantial compliance cannot be invoked.<sup>[29]</sup> Service of summons upon persons other than those officers specifically mentioned in Section 11, Rule 14 is void, defective and not binding to said corporation.<sup>[30]</sup>

Basic is the rule that a strict compliance with the mode of service is necessary to confer jurisdiction of the court over a corporation. The officer upon whom service is made must be one who is named in the statute; otherwise, the service is insufficient. The purpose is to render it reasonably certain that the corporation will receive prompt and proper notice in an action against it or to insure that the summons be served on a representative so integrated with the corporation that such person will know what to do with the legal papers served on him.<sup>[31]</sup>

As correctly argued by petitioners, *Sps. Mason* already resolved that substantial compliance on service of summons upon a domestic corporation is no longer an excuse. Thus:

The question of whether the substantial compliance rule is still applicable under Section 11, Rule 14 of the 1997 Rules of Civil Procedure has been settled in *Villarosa* which applies squarely to the instant case. In the said case, petitioner *E.B. Villarosa & Partner Co. Ltd.* (hereafter Villarosa) with principal office address at 102 Juan Luna St., Davao City and with branches at 2492 Bay View Drive, Tambo, Parañaque, Metro Manila and Kolambog, Lapasan, Cagayan de Oro City, entered into a sale with development agreement with private respondent Imperial Development Corporation. As Villarosa failed to comply with its contractual obligation, private respondent initiated a suit for breach of contract and damages at

the Regional Trial Court of Makati. Summons, together with the complaint, was served upon Villarosa through its branch manager at Kolambog, Lapasan, Cagayan de Oro City. Villarosa filed a Special Appearance with Motion to Dismiss on the ground of improper service of summons and lack of jurisdiction. The trial court denied the motion and ruled that there was substantial compliance with the rule, thus, it acquired jurisdiction over Villarosa. The latter questioned the denial before us in its petition for *certiorari*. We decided in Villarosa's favor and declared the trial court without jurisdiction to take cognizance of the case. We held that there was no valid service of summons on Villarosa as service was made through a person not included in the enumeration in Section 11, Rule 14 of the 1997 Rules of Civil Procedure, which revised the Section 13, Rule 14 of the 1964 Rules of Court. We discarded the trial court's basis for denying the motion to dismiss, namely, private respondent's substantial compliance with the rule on service of summons, and fully agreed with petitioner's assertions that the enumeration under the new rule is restricted, limited and exclusive, following the rule in statutory construction that *expressio unius est exclusio alterius*. Had the Rules of Court Revision Committee intended to liberalize the rule on service of summons, we said, it could have easily done so by clear and concise language. Absent a manifest intent to liberalize the rule, we stressed strict compliance with Section 11, Rule 14 of the 1997 Rules of Civil Procedure.

Neither can herein petitioners invoke our ruling in *Millennium* to support their position for said case is not on all fours with the instant case. We must stress that *Millennium* was decided when the 1964 Rules of Court were still in force and effect, unlike the instant case which falls under the new rule. Hence, the cases cited by petitioners where we upheld the doctrine of substantial compliance must be deemed overturned by *Villarosa*, which is the later case.

At this juncture, it is worth emphasizing that notice to enable the other party to be heard and to present evidence is not a mere technicality or a trivial matter in any administrative or judicial proceedings. The service of summons is a vital and indispensable ingredient of due process. x x x<sup>[32]</sup>

The foregoing notwithstanding, We agree with the CA that there was a valid and effective service of summons upon petitioner corporation through its liaison officer who acted as the agent of the corporate secretary. It ruled:

Petitioner corporation asserts that based on the said rule [Section 11, Rule 14 of the *Rules*], the service of summons made by the sheriff upon its liaison officer, Claudia Abante, was defective for the reason that a liaison officer is not one of the corporate officers enumerated therein upon whom service of summons is authorized to be made. It contends that there having been no valid service, the trial court consequently did not acquire jurisdiction to hear the complaint *a quo*.

The contention deserves full credence only if it is to be assumed that Claudia Abante received the summons in her official capacity as petitioner corporation's liaison officer. However, this is not true in the