

THIRD DIVISION

[G.R. No. 184333, April 01, 2013]

SIXTO N. CHU, PETITIONER, VS. MACH ASIA TRADING CORPORATION, RESPONDENT.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* assailing the Decision^[1] dated June 25, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 70666, and the Resolution^[2] dated August 28, 2008 denying petitioner's Motion for Reconsideration.

The factual and procedural antecedents are as follows:

Respondent Mach Asia Trading Corporation is a corporation engaged in importing dump trucks and heavy equipments. On December 8, 1998, petitioner Sixto N. Chu purchased on installment one (1) Hitachi Excavator worth P900,000.00 from the respondent. Petitioner initially paid P180,000.00 with the balance of P720,000.00 to be paid in 12 monthly installments through Prime Bank postdated checks. On March 29, 1999, petitioner again purchased two (2) heavy equipments from the respondent on installment basis in the sum of P1,000,000.00, namely: one (1) motorgrader and one (1) payloader. Petitioner made a down payment of P200,000.00 with the balance of P800,000.00 payable in 12 monthly installments through Land Bank postdated checks.^[3]

However, upon presentment of the checks for encashment, they were dishonored by the bank either by reason of "closed account," "drawn against insufficient funds," or "payment stopped." Respondent informed petitioner that the checks were dishonored and invited him to its office to replace the checks. On September 16, 1999, respondent sent petitioner a formal demand letter urging the latter to settle his accounts within five days from receipt of the letter. In response, petitioner sent respondent a letter explaining that his business was badly hit by the Asian economic crisis and that he shall endeavor to pay his obligation by giving partial payments. He said that he shall also voluntarily surrender the subject units should he fail to do so.^[4]

On November 11, 1999, respondent filed a complaint before the Regional Trial Court (RTC) of Cebu City for sum of money, replevin, attorney's fees and damages against the petitioner. Respondent prayed for the payment of the unpaid balance of P1,661,947.27 at 21% per annum until full payment, 25% of the total amount to be recovered as attorney's fees, litigation expenses and costs.^[5]

On November 29, 1999, the RTC issued an Order^[6] allowing the issuance of a writ of replevin on the subject heavy equipments.

On December 9, 1999, Sheriff Doroteo P. Cortes proceeded at petitioner's given address for the purpose of serving the summons, together with the complaint, writ of replevin and bond. However, the Sheriff failed to serve the summons personally upon the petitioner, since the latter was not there. The Sheriff then resorted to substituted service by having the summons and the complaint received by a certain Rolando Bonayon, a security guard of the petitioner.^[7]

Petitioner failed to file any responsive pleading, which prompted respondent to move for the declaration of defendant in default. On January 12, 2000, the RTC issued an Order declaring defendant in default and, thereafter, allowed respondent to present its evidence *ex parte*.

On December 15, 2000, after respondent presented its evidence, the RTC rendered a Decision against the petitioner, thus:

1. By adjudicating and adjudging plaintiff's right of ownership and possession over the subject units mentioned and described in the complaint, and which were already seized and turned over to the plaintiff by virtue of the writ of replevin.
2. Ordering defendants to pay to plaintiff the sum of (sic) equivalent to 25% of the total amount recovered or value of the heavy equipments possessed as attorney's fees, and to reimburse no less than P15,000.00 as expenses for litigation, plus the cost of the premium of replevin bond in the amount of P11,333.50.^[8]

Aggrieved, petitioner sought recourse before the CA, docketed as CA-G.R. CV No. 70666. Petitioner argued that the RTC erred in concluding that the substituted service of summons was valid, and that, consequently, there was error on the part of the RTC when it declared him in default, in proceeding with the trial of the case, and rendering an unfavorable judgment against him.

On July 25, 2007, the CA rendered a Decision^[9] affirming the Decision of the RTC, the decretal portion of which reads:

WHEREFORE, IN LIGHT OF THE FOREGOING, the Decision of the Regional Trial Court of Cebu, Branch 17, in Civil Case No. CEB-24551, rendered on December 15, 2000, is hereby AFFIRMED with the sole modification as to award of attorney's fees, which is hereby reduced to 10% of the value of the heavy equipments recovered.

SO ORDERED.^[10]

Ruling in favor of the respondent, the CA opined, among others, that the requirement of due process was complied with, considering that petitioner actually received the summons through his security guard. It held that where the summons was in fact received by the defendant, his argument that the Sheriff should have

first tried to serve summons on him personally before resorting to substituted service of summons deserves scant consideration. Thus, in the interest of fairness, the CA said that the process server's neglect or inadvertence in the service of summons should not unduly prejudice the respondent's right to speedy justice.

The CA also noted that petitioner failed to set up a meritorious defense aside from his contention that summons was not properly served. It went further and decided the case on the merits and ruled that petitioner has an unpaid obligation due to respondent for the heavy machineries he purchased from the latter. It, however, reduced the amount of attorney's fees awarded to 10% of the value of the heavy equipments recovered.

Petitioner filed a Motion for Reconsideration, but it was denied in the Resolution^[11] dated August 28, 2008.

Hence, the petition assigning the following errors:

I

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN DEFIANCE OF LAW AND JURISPRUDENCE IN FINDING THAT THE TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSON OF THE DEFENDANT EVEN WHEN THE SUBSTITUTED SERVICE OF SUMMONS WAS IMPROPER.^[12]

II

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN DEFIANCE OF LAW AND JURISPRUDENCE IN HOLDING THAT HEREIN PETITIONER SHOULD HAVE SET UP A MERITORIOUS DEFENSE EVEN WHEN THE SUMMONS WAS IMPROPERLY SERVED.^[13]

Petitioner argues that there was no valid substituted service of summons in the present case. He maintains that jurisdiction over the person of the defendant is acquired only through a valid service of summons or the voluntary appearance of the defendant in court. Hence, when there is no valid service of summons and no voluntary appearance by the defendant, any judgment of a court, which acquired no jurisdiction over the defendant, is null and void.

On its part, respondent posits that the RTC acquired jurisdiction over the person of the petitioner and the judgment by default of the RTC was based on facts, law, and jurisprudence and, therefore, should be enforced against the petitioner.

The petition is meritorious.

Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint. On the other hand, jurisdiction over the defendants in a civil case is acquired either through the service of summons upon them or through their voluntary appearance in court and their submission to its authority.^[14]