

THIRD DIVISION

[G.R. No. 190754, November 17, 2010]

**SAN PEDRO CINEPLEX PROPERTIES, INC., PETITIONER, VS.
HEIRS OF MANUEL HUMADA ENAÑO, REPRESENTED BY VIRGILIO
A. BOTE, RESPONDENTS.**

RESOLUTION

CARPIO MORALES, J.:

For consideration is petitioner's Motion for Reconsideration of the Court's Resolution of February 15, 2010 denying outright its petition for review on certiorari for failure to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution.

The antecedents, as culled from the records, are as follows:

Respondents filed on August 17, 2006 a complaint for quieting of title with damages against petitioner before the Regional Trial Court (RTC) of San Pedro, Laguna, which complaint was raffled to Branch 93 thereof.

On October 20, 2006, petitioner filed a Motion to Dismiss^[1] on the ground that the RTC did not validly acquire jurisdiction over it due to improper service of summons. It argued that, among other things, there was no observance of the rule that service of summons on a defendant-corporation must be made upon its president, general manager, corporate secretary, treasurer or in-house counsel.

Respondents contended, however, that the Officer's Return showed that the summons addressed to petitioner was served upon and received by Jay Orpiada (Orpiada), its manager. They thus moved to declare petitioner in default for failure to file an Answer within the reglementary period.^[2]

Close to 11 months after petitioner filed a Motion to Dismiss or on September 10, 2007, it filed a Motion to Withdraw [its still unresolved] Motion to Dismiss and to Admit Answer. On even date, the trial court denied petitioner's motion to dismiss and, acting on the motion of respondents which they had filed after petitioner's filing of the Motion to Dismiss, declared petitioner in default.

Petitioner challenged the trial court's order of default via certiorari, prohibition and mandamus before the Court of Appeals.

By Decision of August 12, 2009,^[3] the appellate court dismissed the petition, holding that, among other things, the trial court properly acquired jurisdiction over petitioner via manager Orpiada; any flaw in the service of summons was cured by petitioner's voluntary submission to the trial court's jurisdiction when it filed the Motion to Withdraw Motion to Dismiss and to Admit Answer; and the trial court

unerringly declared petitioner in default for failure to file an Answer within the reglementary period.

Its Motion for Reconsideration having been denied by Resolution dated December 17, 2009,^[4] petitioner sought relief from this Court via petition for review on certiorari.^[5]

As reflected earlier, the Court denied outright the petition by Resolution of February 15, 2010.^[6]

In the present Motion for Reconsideration,^[7] petitioner avers that, among other things, service of summons upon Orpiada violated the rules and cannot bind it; the trial court should have been more liberal considering that it took more than 10 months to resolve petitioner's Motion to Dismiss; and on the merits, it would have been able to establish its ownership of the property subject of the case.

In its Comment^[8] on the Motion for Reconsideration filed in compliance with this Court's Resolution^[9] of August 18, 2010, respondents maintain that Orpiada is the Manager of petitioner corporation within the contemplation of Rule 14, Section 11 of the Rules of Court upon whom service of summons can be made, as in fact Orpiada had previously received, on behalf of petitioner, a document from the RTC of San Pedro, Laguna; and no Answer of petitioner had actually been filed since the trial court had denied its Urgent Motion to Withdraw Motion to Dismiss and to Admit Answer.

Replying [With Motion to Cite Respondents and their Counsel in Direct Contempt of Court],^[10] petitioner maintains that the service of summons upon Orpiada was patently defective, but more importantly, argues that respondents should be cited in contempt for submitting a forged Certification^[11] dated May 4, 2010 allegedly signed by Acting Deputy Register of Deeds Marites C. Tamayo of the Land Registration Authority of Calamba, Laguna stating that the original copies of petitioner's TCT Nos. T-309608, 309609 and 309610 could not be located, which certification was disowned by Atty. Tamayo herself in her letter-reply^[12] of June 7, 2010.

After a considered hard look at the case, the Court finds petitioner's Motion for Reconsideration impressed with merit.

In view of petitioner's prayer for the remand of the case to the trial court which amounts to submission to the trial court's jurisdiction, the Court finds it unnecessary to dwell on the issue of service of summons.

What is crucial is the trial court's assailed declaration of default.

Petitioner correctly points out that the rule is that a defendant's answer should be admitted where it is filed before a declaration of default and no prejudice is caused to the plaintiff. Indeed, where the answer is filed beyond the reglementary period but *before* the defendant is declared in default and there is no showing that defendant intends to delay the case, the answer should be admitted.^[13]