

## THIRD DIVISION

[ G.R. NO. 147530, June 29, 2005 ]

**PABLO B. CASIMINA, THEN GENERAL MANAGER OF THE  
PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY,  
PETITIONER, VS. HON. EMILIO B. LEGASPI, IN HIS CAPACITY AS  
PRESIDING JUDGE OF RTC OF ILOILO, BRANCH 22 AND  
EMMANUEL T. ILLERA, RESPONDENTS.**

### DECISION

**CORONA, J.:**

Before us is a petition for review under Rule 45 of the Rules of Civil Procedure for the nullification of the decision dated August 18, 2000 of Hon. Emilio B. Legaspi, presiding judge of the Regional Trial Court of Iloilo City, Branch 22 in Civil Case No. 00-26187, directing petitioner to desist from giving effect to the re-assignment of private respondent from his permanent station in Iloilo City to the Quezon City office.

The facts follow.

Private respondent Emmanuel T. Illera was the Port Manager of the Iloilo Fishing Port Complex (IFPC) while petitioner Pablo B. Casimina was the then General Manager of the Philippine Fisheries Development Authority (PFDA) with offices in Quezon City.

On March 17, 2000, petitioner Casimina issued Special Order No. 82<sup>[1]</sup> re-assigning private respondent from Iloilo to the central office in Quezon City:

17 March 2000

#### **SPECIAL ORDER**

##### **No. 82**

Series of 2000

Subject: REASSIGNMENT OF PERSONNEL

In the exigency of the service, Mr. EMMANUEL T. ILLERA, Port Manager of the Iloilo Fish Port Complex (IFPC) is hereby reassigned to the Central Office of the General Manager effective 03 April 2000. To assume responsibility of over-all port administration, Engr. TITO C. COSEJO, Port Manager, Navotas Fish Port Complex (NFPC) is hereby re-assigned and designated as Acting Port Manager of the Iloilo Fish Port Complex.

Mr. Illera and Engr. Cosejo should immediately clear themselves of their administrative accountabilities before proceeding to their new place of

assignment.

This Order shall remain effective until revoked in writing by the undersigned.

(SGD.) **PABLO B. CASIMINA**  
General Manager

On March 22, 2000, private respondent sent a memorandum<sup>[2]</sup> to petitioner praying for a reconsideration of the above order. He wrote –

22 March 2000

M E M O R A N D U M

F O R: The General Manager, PFDA  
T H R U: The Asst. General Manager, PFDA  
F R O M: The Port Manager, PFDA-IFPC  
S U B J E C T: REASSIGNMENT

In the late afternoon of 21 March 2000, S.O. no. 82 s. 2000 was faxed to my office. I was surprised when my staff gave this communication to me the next day because considering my transfer or any employees transfers for that matter – would have far reaching official and personal consequences as well, I expected that this matter should have at least first been discussed with me. As it is I do not know for what reasons if any I am being reassigned or even what I am supposed to be doing in your office when I get there. The S.O. itself is silent on these matters.

My situation becomes quite ironic when we look at S.O. no. 81 s. 2000 which is dated 14 March 2000. Before this Order referring to Ms. Irma Catain's detail to Central Office was even prepared, Ms. Catain first talked to you, me and Atty. Paz to whose office she will be assigned. When we accepted her personal reasons for reassignment our offices worked out the details of her transfer and so the Special Order was issued. If you will recall, last 18 January 2000 an undated S.O. No. 024 was issued transferring Engr. P. Zapanta, the IFPC Acting EMD chief to General Santos and no prior consultation was also done. I thought with the procedure observed in Ms. Catain's case all that was behind us.

In view therefore of the above I am requesting that S.O. No. 82 s.2000 be reconsidered.

(SGD.) EMMANUEL T. ILLERA

On March 29, 2000, petitioner issued a memorandum<sup>[3]</sup> to private respondent stating therein the reason for the re-assignment. He explained –

29 March 2000

M E M O R A N D U M

T O: The Port Manager, IFPC

F R O M: The General Manager  
SUBJECT: **Reassignment to Central Office**

Your response dated 22 March 2000 to Special Order No. 82 Series of 2000 regarding your reassignment to the Central Office is noted.

While in the Central Office, you are expected to help review and formulate credit and collection policies that would negate the accumulation of uncollected accounts receivables, in addition to the other duties that may be assigned to you in the interest of the service.

In this connection, you are hereby ordered to cease and desist from the further performance of your duties as Port Manager of the Iloilo Fish Port Complex effective 03 April 2000 and to assume duties and responsibilities as stated.

For strict compliance.

(SGD.) PABLO B. CASIMINA

After receiving the memorandum, private respondent immediately filed a case for injunction with prayer for temporary restraining order and a writ of preliminary injunction against petitioner in the RTC of Iloilo, Branch 22 docketed as Civil Case No. 00-26187, to restrain petitioner from transferring him to the central office in Quezon City.

On April 14, 2000, petitioner, through counsel, filed an omnibus motion for the dismissal of the complaint on the grounds of lack of jurisdiction over his person and the subject matter, and lack of cause of action. He averred that he never received any summons or copy of the complaint against him, hence, the court never acquired jurisdiction over his person. He further contended that the case involved personnel movement of a government employee in the public service and should have been appealed to the Civil Service Commission instead of the regular courts.

The trial court denied petitioner's motion to dismiss the complaint against him and granted the writ of preliminary injunction prayed for by private respondent ordering petitioner to "desist from giving effect to the re-assignment of plaintiff (herein private respondent) from his permanent station in Iloilo City to the Quezon City office."<sup>[4]</sup>

Petitioner moved for a reconsideration of the above decision but it was denied, hence, this appeal. He raises the following as the issues for our consideration:

A. Whether or not public respondent, Hon. Emilio B. Legaspi, in his capacity as Presiding Judge of the Regional Trial Court of Iloilo, Branch 22, exercised grave abuse of discretion which is tantamount to lack of or in excess of jurisdiction in deciding the case when the said trial court has not acquired jurisdiction over the person of the petitioner and the subject matter of the case;

B. Whether or not the instant case should be dismissed for lack of cause of action on the ground of private respondent's failure to exhaust administrative remedies.<sup>[5]</sup>

Petitioner contends that the court *a quo* did not acquire jurisdiction over his person because the summons, together with a copy of the complaint, was not personally served on him. He argues that the summons was served by the sheriff in the PFDA office in the Iloilo Fishing Port Complex while his office was in Quezon City. He further contends that when Assistant Government Corporate Counsel Reynaldo R. Tansioco, Government Corporate Attorney Ruben S. de la Paz and Government Corporate Attorney Mariano C. Alojado appeared in court during the hearing of the motion for the issuance of a preliminary injunction on April 18, 2000, they did so only to inform the court that they had filed an omnibus motion to dismiss the complaint against petitioner on the ground of lack of jurisdiction over his person and over the subject matter of the case.

We find the petition meritorious.

A court acquires jurisdiction over a person either through a valid service of summons or the person's voluntary appearance in court. A court must necessarily have jurisdiction over a party for the latter to be bound by a court decision.<sup>[6]</sup>

Generally accepted is the principle that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court.<sup>[7]</sup>

Summons is a writ by which the defendant is notified of the action brought against him. Service of such writ is the means by which the court may acquire jurisdiction over his person.<sup>[8]</sup> As a rule, summons should be personally served on the defendant.<sup>[9]</sup> It is only when summons cannot be served personally within a reasonable period of time that substituted service may be resorted to.<sup>[10]</sup> The Rules specify two modes for effecting substituted service of summons, to wit:

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.<sup>[11]</sup>

Here, petitioner never received the summons against him, whether personally or in his office. The records show that petitioner's official address as the General Manager of the Philippine Fisheries Development Authority (PFDA) was in Quezon City. Yet, the summons, together with a copy of the complaint, was served not in his Manila office but in PFDA's Iloilo branch office and received by the records receiving officer there. We have held that the failure to faithfully, strictly and fully comply with the requirements of substituted service renders the service ineffective.<sup>[12]</sup>

In ruling that there was a valid service of summons, respondent judge "presumed that the said Records Receiving Officer (was) authorized to receive the communication or court processes addressed to the defendant."<sup>[13]</sup> He further surmised and held that:

One thing sure is, he forwarded it to their Manila, Quezon City Central Office. In fact, Engr. Tito Cosejo who briefly acted as the Department