

SECOND DIVISION

[G.R. No. 147937, November 11, 2004]

THE PHILIPPINE AMERICAN LIFE & GENERAL INSURANCE COMPANY, PETITIONER, VS. HON. AUGUSTO V. BREVA, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, DAVAO CITY, BRANCH 10, AND MILAGROS P. MORALES, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

Before us is a petition for review of the Decision^[1] of the Court of Appeals (CA), dated October 24, 2000, dismissing the special civil action for certiorari and prohibition filed by the petitioner, The Philippine American Life & General Insurance Company, and the Resolution dated April 25, 2001, denying the petitioner's motion for reconsideration.

The petitioner is a domestic corporation duly organized under Philippine laws with principal address at the Philamlife Building, United Nations Avenue, Ermita, Manila, and with a regional office in Davao City.

The Antecedents

On September 22, 1999, respondent Milagros P. Morales filed a Complaint^[2] for damages and reimbursement of insurance premiums against the petitioner with the Regional Trial Court (RTC) of Davao City, Branch 10, docketed as Civil Case No. 27554-99. The complaint specifically stated that the petitioner could be served with summons and other court processes through its Manager at its branch office located at Rizal St., Davao City.

Thereafter, Summons^[3] dated September 29, 1999, together with the complaint, was served upon the petitioner's Davao regional office, and was received by its Insurance Service Officer, Ruthie Babael, on November 19, 1999.^[4]

On December 8, 1999, the petitioner filed a Motion to Dismiss^[5] the complaint on the ground of lack of jurisdiction over its person due to improper service of summons. It contended that summons was improperly served upon its employee in its regional office at Davao City, and that the said employee was not among those named in Section 11,^[6] Rule 14 of the 1997 Rules of Civil Procedure upon whom service of summons may be properly made.

On December 9, 1999, the respondent filed an Amended Complaint,^[7] alleging that summons and other court processes could also be served at its principal office at the Philamlife Building, U.N. Avenue, Ermita, Manila, through the president or any of its

officers authorized to receive summons.

On December 10, 1999, the RTC issued an Order^[8] denying the petitioner's motion to dismiss and directing the issuance of an alias summons to be served at its main office in Manila.^[9]

The RTC held that the improper service of summons on the petitioner is not a ground for dismissal of the complaint considering that the case was still in its initial stage. It ruled that the remedy was to issue an alias summons to be served at the principal office of the petitioner. It also held that the jurisprudence cited by the petitioner was inapplicable, as it involved a case already decided by a court which did not have jurisdiction over the defendant therein due to improper service of summons.

On January 12, 2000, the petitioner filed a Motion for Reconsideration^[10] of the said order. In the meantime, on December 14, 1999, the petitioner received an Alias Summons^[11] together with a copy of the amended complaint.

On January 14, 2000, the RTC issued an Order^[12] denying the petitioner's motion for reconsideration and supplemental oral motion to strike out the amended complaint. The RTC reiterated that it would be improper to dismiss the case at its early stage because the remedy would be to issue an alias summons. Anent the motion to strike out the amended complaint, the RTC held that the complaint may be amended without leave of court considering that the respondent had not yet filed an answer thereto.

On March 2, 2000, the petitioner filed with the CA a special action for certiorari and prohibition under Rule 65, with application for a writ of preliminary injunction and/or temporary restraining order, assailing the Orders dated December 10, 1999 and January 14, 2000.

On October 24, 2000, the CA dismissed the petition and affirmed the assailed orders of the RTC. The CA held that the service of the alias summons on the amended complaint upon the authorized officers of the petitioner at its principal office in Manila vested the RTC with jurisdiction over its person. The CA, likewise, denied the petitioner's motion for reconsideration of the said decision on April 25, 2001.

Hence, this petition for review.

The petitioner avers that the trial court committed grave abuse of discretion when it denied the motion to dismiss on the ground of lack of jurisdiction over its person because the service of the summons at its regional office through an insurance service officer was improper. Sec. 11, Rule 14 of the 1997 Revised Rules of Civil Procedure is strict as to the persons upon whom valid service of summons on a corporation can be made. The petitioner argues that where summons is improperly served, it becomes ministerial upon the trial court, on motion of the defendant, to dismiss the complaint pursuant to Sec. 1(a),^[13] Rule 16 of the 1997 Revised Rules of Civil Procedure.

The petitioner further avers that the trial court did not acquire jurisdiction over it upon the service of alias summons on the amended complaint because such alias

summons was improperly issued. Sec. 5,^[14] Rule 14 of the 1997 Revised Rules of Civil Procedure explicitly provides that the previous summons must have been lost or unserved to warrant the issuance of alias summons. The petitioner opines that the issuance of an alias summons presupposes the existence of a previous valid summons which, however, has not been served or has been lost. It maintains that considering that there are specific circumstances that need to exist to warrant its issuance, the alias summons cannot be treated as a matter of nomenclature.^[15]

The respondent, for her part, avers that the receipt of the amended complaint together with the alias summons by the petitioner cured the defects in the first service of summons. She argues that any procedural defect on the service of alias summons is not sufficient to warrant the dismissal of the case.^[16]

The Court's Ruling

The core issues in this case are (1) whether the trial court committed grave abuse of discretion in denying the motion to dismiss on the ground of lack of jurisdiction over the person of the petitioner due to improper service of summons, and (2) whether the trial court acquired jurisdiction over the person of the petitioner as the defendant therein.

The petition is without merit.

The trial court did not commit grave abuse of discretion when it denied the motion to dismiss filed by the petitioner due to lack of jurisdiction over its person. In denying the motion to dismiss, the CA correctly relied on the ruling in *Lingner & Fisher GMBH vs. Intermediate Appellate Court*,^[17] thus:

A case should not be dismissed simply because an original summons was wrongfully served. It should be difficult to conceive, for example, that when a defendant personally appears before a Court complaining that he had not been validly summoned, that the case filed against him should be dismissed. An *alias* summons can be actually served on said defendant.^[18]

In the recent case of *Teh vs. Court of Appeals*,^[19] the petitioner therein also filed a motion to dismiss before filing his answer as defendant in the trial court on the ground of failure to serve the summons on him. In that case, the Court agreed with the appellate court's ruling that there was no abuse of discretion on the part of the trial court when the latter denied the petitioner's motion to dismiss the complaint and ordered the issuance of an alias summons.^[20]

We note, however, that in this case, the complaint was amended after the petitioner filed the motion to dismiss. The trial court even acknowledged this when it rendered its order denying the motion to dismiss and ordered the issuance of an alias summons. The Rules on Civil Procedure provide that the amended complaint supersedes the complaint that it amends.^[21] Contrary to the petitioner's claim, the summons issued on the amended complaint does not become invalid. In fact, summons on the original complaint which has already been served continues to have its legal effect. Thus, where the defendant has already been served summons on the original complaint, the amended complaint may be served upon him without