

SECOND DIVISION

[G.R. No. 147038, April 24, 2003]

RICHARD TEH, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. ALFREDO C. FLORES, PRESIDING JUDGE, REGIONAL TRIAL COURT OF PASIG CITY, BRANCH 167, EIM INTERNATIONAL SALES, INC., RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure. Petitioner Richard Teh assails the Resolution of the Court of Appeals dated March 14, 2000 which dismissed his petition for certiorari for failure to attach the original or certified true copies of the annexes thereto, as well as the appellate court's Resolution dated February 9, 2001 dismissing petitioner's motion for reconsideration for lack of merit.

The antecedent facts of the case are as follows:

On August 20, 1998, respondent EIM International Sales, Inc. filed in the Regional Trial Court (RTC) of Pasig City a Complaint for collection of sum of money with prayer for issuance of preliminary attachment against Wood Based Panels, Inc., Sinrimco. Inc., Manfred Luig and petitioner. The case was docketed as Civil Case No. 66974 and raffled to Branch 167 of the RTC of Pasig City. Petitioner was impleaded in the case because he was the President of both Wood Based Panels, Inc. and Sinrimco, Inc.

Subsequently, summons were served upon the two corporations and Luig (defendants). The sheriff failed to serve the summons intended for the petitioner because the former could not locate the petitioner's address as indicated in the complaint. Said address was obtained by the respondent from the General Information Sheets filed with the Securities and Exchange Commission by the two corporations.^[1]

The defendants filed a motion to dismiss, but the same was denied by the trial court. Thereafter, they filed their respective answers to the complaint. The respondent then filed a motion to set the case for pre-trial, and the court granted the same and set the pre-trial on October 19, 1999. A notice of pre-trial was sent by the RTC to the defendants, including the petitioner. The notice to the latter was again sent to the address indicated in the complaint.

On October 19, 1999, the petitioner filed a Motion to Dismiss the complaint on the ground that the trial court had not acquired jurisdiction over his person because he had not been served with summons. The trial court ordered the cancellation of the pre-trial and the resetting thereof on November 19, 1999. It, likewise, ordered the

respondent to submit a reply or opposition to petitioner's motion to dismiss within five days from October 19, 1999.

The next day, October 20, 1999, the respondent filed a Comment explaining that summons had not been served on the petitioner because, according to the sheriff, the petitioner's address indicated in the complaint, "138 Maria Clara Street, Sta. Mesa, Manila," could not be located.

The trial court issued an Omnibus Order dated November 17, 1999 denying petitioner's motion to dismiss and directing that an alias summons be issued against the petitioner to be served upon him at 138 Maria Clara Street, Sta. Mesa, Manila. The respondent thereafter filed a manifestation and motion, informing the court that the address of the petitioner as indicated in the complaint was erroneous, and that summons should instead be served upon him at "138 Maria Clara Street, Sta. Mesa Heights, Quezon City," which was his correct address.

On December 14, 1999, the petitioner filed a Motion for Reconsideration of the trial court's omnibus order. He contended therein that the case should be dismissed in view of the trial court's failure to acquire jurisdiction over his person and the respondent's failure to prosecute the case, considering that more than a year had passed since the complaint was instituted and yet summons had not yet been served on him. The respondent opposed the petitioner's motion for reconsideration.

The trial court issued an Order dated January 25, 2000 denying the petitioner's motion for reconsideration, which order the petitioner received on February 3, 2000.

On February 28, 2000, the petitioner filed with the Court of Appeals a Petition for Certiorari and Prohibition questioning the trial court's November 17, 1999 Omnibus Order and the January 25, 2000 Order denying his motion for reconsideration.

On March 14, 2000, the appellate court issued its Resolution dismissing the petition for failure to attach certified true copies of relevant documents referred to in the petition.^[2]

The petitioner filed a motion for reconsideration of the foregoing resolution, but said motion was denied by the Court of Appeals in a Resolution dated February 9, 2001. The appellate court upheld the petitioner's argument that Rule 65 of the Rules of Civil Procedure requires the originals or certified true copies only of the orders challenged in the petition and not of the other relevant documents attached thereto. However, it dismissed the petition on the ground that the order assailed therein was one denying a motion to dismiss, an interlocutory order which is beyond the scope of a petition for certiorari. The Court of Appeals further held that the trial court did not abuse its discretion when it denied the motion to dismiss on the ground of lack of jurisdiction over the person of the petitioner and ordered the issuance of an alias summons to the latter.^[3]

Hence, this petition.

The petitioner claims that the Court of Appeals committed grave abuse of discretion in denying his motion for reconsideration despite its own finding that petitioner's position that Rule 65 of the Rules of Civil Procedure requires the originals or certified