

## SECOND DIVISION

**[ A.M. No. P-99-1300, June 23, 2000 ]**

**GILBERT CATALAN, COMPLAINANT, VS. REYNALDO B. UMALI,  
PROCESS SERVER, RESPONDENT.**

### D E C I S I O N

**MENDOZA, J.:**

This is a complaint filed by Gilbert Catalan against respondent Reynaldo Umali, process server of the Regional Trial Court, Branch 166, Pasig City, for falsifying the officer's return filed by him on November 2, 1994 in Civil Case No. 64795.

Complainant is the executive secretary of North East Greenhills Association, Inc. (NEGA), which was one of the defendants in Civil Case No. 64795 for annulment and cancellation of titles. The complaint as well as the summons gave NEGA's address as No. 101 Connecticut Street, Greenhills, Mandaluyong City ("No. 101 Connecticut Street"). Respondent was entrusted with the service of the summons on NEGA at said address. In his return,<sup>[1]</sup> he stated the following:

Pursuant to the Order of the Honorable Court dated 28th day of October 1994, I have served a copy of summons together with complaints and its annexes, Order dated October 28, 1994, issued by this Court in the above-entitled case, that was served on the 2nd day of November 1994, to defendant NorthEast Greenhills Association, Inc., located at No. 101 Connecticut Street, Greenhills, Mandaluyong City, but, to no avail for the reason that the said few of the person were present when the service was rendered.

When the undersigned proceeded at the said place NorthEast Greenhills Association, Inc., No. 101 Connecticut Street, Greenhills, Mandaluyong City, per information relayed by certain Gina Maravillas, one of the incharge of the office or place of business maintain therein who refused to affix the signature but acknowledged receipt thereof.

However, on the same date said summons together with complaints and its annexes, duplicate certified true copy of Order dated 28th day of October was resorted to in accordance with and pursuant to Rule 14, Section 7, 8(a)(b) and 9 of the Revised Rules of Court by leaving or tendering a copy of summons together with complaints and its annexes with the Order thru Gina Maravillas, who is competent in charge thereof who refused to affix the signature, but acknowledged receipt thereof.

Wherefore, said summon and Order is hereby returned to the Honorable Court DULY SERVED for its record and its information.

Complainant alleged, however, that No. 101 Connecticut Street was not NEGA's address. Nemesio Co, a member of NEGA's board of directors, testified that this had been the address of the association's first president and served as its office only at the time of its organization.<sup>[2]</sup> Since then, NEGA had moved to its present address at Nega Park, La Salle and Postdam Street, Greenhills, San Juan, Metro Manila. Complainant averred that respondent served summons on NEGA at the wrong address and falsely stated in his officer's return that a certain Gina Maravillas, a fictitious person, received the summons for NEGA. In a joint affidavit<sup>[3]</sup> subsequently executed by complainant and Nemesio Co, it was claimed that respondent did not even go to No. 101 Connecticut Street and merely made up what he stated in his officer's return. Complainant alleged that because of the false return, NEGA was declared in default for failure to answer and lost the case.<sup>[4]</sup> He thus prayed that respondent be dismissed as process server.

Respondent denied that he falsified the subject officer's return. Claiming regularity in the performance of his duties, he maintained that as stated therein, he served the summons on NEGA at No. 101 Connecticut Street, as the address stated in the summons. He claimed that he was able to find said address with the help of a security guard and that the one who received the summons was a woman who introduced herself as Gina Maravillas, who assured him that she was an employee of NEGA authorized to receive court processes for the association. According to respondent, he gave the summons, together with the complaint and its annexes, to the woman but the latter, in the presence of some other persons in the office, refused to sign and acknowledged receipt of the summons. Respondent claimed that, as a result, he was constrained to resort to substituted service of summons by considering said Gina Maravillas as a competent person in charge of the NEGA office.<sup>[5]</sup> In a supplemental affidavit,<sup>[6]</sup> respondent claimed that NEGA in fact was able to file its answer in Civil Case No. 64795 and that, as shown in the trial court's decision,<sup>[7]</sup> NEGA actually won the case.<sup>[8]</sup>

It appears that NEGA was not really declared in default and did not really lose the case, as complainant, a layman, claimed, but only that, at the hearing on November 23, 1994 for the issuance of a writ of preliminary injunction, NEGA failed to appear and the plaintiffs were allowed to adduce evidence ex-parte.<sup>[9]</sup> As prayed for by the plaintiffs, a writ of preliminary injunction was thus issued against NEGA.<sup>[10]</sup> But, in the end, NEGA won that case.

This case was referred to the Executive Judge, Regional Trial Court, Pasig City for investigation, report and recommendation.

On March 30, 2000, after hearing, Judge Rodolfo R. Bonifacio submitted his report finding that as charged, respondent falsely stated in his return that he had served summons on NEGA at No. 101 Connecticut Street. The report also quoted portions of respondent's testimony to show that the same is implausible and seriously inconsistent. Finally, the report stated that respondent's reliance upon contradictory modes of service showed either his bad faith or his incompetence. Judge Bonifacio recommended that respondent be given a reprimand with warning.<sup>[11]</sup>

Except as to the penalty, we find the recommendation well-taken.