FOURH DIVISION

[CA-G.R. SP NO. 87255, August 29, 2006]

GLOBEMASTER TRAVELMART CORPORATION, PETITIONER, VS. HON. ANTONIO M. ROSALES, IN HIS OFFICIAL CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 52, MANILA, AND MARANAW HOTELS & RESORT CORPORATION, RESPONDENTS.

D E C I S I O N

GUARIÑA III, J.:

A petition for *certiorari* was brought by Globemaster Travelmart Corporation against an order issued by the Regional Trial Court of Manila, Branch 52, on September 9, 2004 denying its motion to dismiss a complaint for sum of money filed against it by Maranaw Hotels and Resort Corporation.[1] A motion for reconsideration of the order was denied on October 7, 2004. [2]

Globemaster, the defendant, stated that it was moving to dismiss the complaint on the ground that the court had not acquired jurisdiction over it.[3] It touted the argument that it was not validly served with summons either by personal or substituted service, and only by way of a parenthetical observation did it opine that the notice of garnishment was itself improperly served. The petitioner summed up its *tour de force* in these words : *Since the court has not validly acquired jurisdiction over the defendant GTC, all proceedings taken in the case are null and void.* [4] It prayed that its special appearance be noted and the motion to dismiss granted.

The focus on improper service of summons became sharper as the discussion wore on. The respondent Maranaw devoted its opposition to convincing the court that the defendant was validly served with summons through personal service,[5] while the petitioner, in a reply,[6] denigrated the impermissible shortcuts in the implementation of substituted service. " *Because of the improper resort to substituted service of summons,*" it said confidently, " *the court did not acquire jurisdiction over the defendant and thus, the case against it must perforce be dismissed.* "

The shadow line to the other issue of improper attachment was crossed in the rejoinder. [7] After insisting that the service of summons by the sheriff was personal instead of substituted, the respondent stated : *Allow us to comment on the (petitioner's) peripheral argument that before summons was served, though erroneously, the sheriff already served the notice of garnishment*. The petitioner was heard to say that the garnishment was made before the court acquired jurisdiction over the petitioner and when it still had no power to act in any manner against it. The respondent retorted that the argument conveniently overlooked the fact that *while the levy preceded the service of summons, the actual pickup by the*

sheriff of the (garnished amount) was done contemporaneously with the service of summons. [8]

In denying the motion to dismiss, the trial court made two conclusions : (1) the summons was validly served by way of personal service on the president and general manager of Globemaster, and (2) there was a contemporaneous service of the summons and execution of the writ of preliminary attachment rendering valid the implementation of the writ. [9]

The petitioner now placed the two issues on a parity in the motion for reconsideration.[10] In its disquisition, it argued that the summons was not validly served, hence the motion to dismiss, and that the implementation of the writ of attachment was invalid because it was done before summons was served. The court considered the arguments a mere repetition of those already presented in the motion to dismiss and passed upon by it. [11]

The issues of improper service of the summons and implementation of the writ of attachment are advanced in tandem in this petition. While the dismissal of the complaint is the only relief specifically prayed for, a general prayer for just and equitable reliefs is also included. This is sufficient. As stated in Chacon Enterprises vs Court of Appeals 124 SCRA 784, even without the prayer for a specific remedy, the proper relief may nonetheless be granted if the allegations in the complaint and the evidence so warrant.

The records of the case show that the respondent Maranaw filed with the Regional Trial Court of Manila on November 24, 2003 a complaint for a sum of money with damages and an application for a writ of preliminary attachment against the petitioner Globemaster. [12] The court initially denied the application for the writ due to the lack of an affidavit. Upon correction of the deficiency, it ordered the attachment on December 4, 2003, and the writ was forthwith issued commanding the branch sheriff to attach the properties of the petitioner. [13]

On January 12, 2004, as reported by the sheriff,[14] Atty. Antonio Reyes, counsel for Maranaw, requested her not to serve the summons and writ until they could locate assets to be attached. The following day, January 13, the lawyer informed her of the existence of a bank account and asked that a notice of garnishment be sent to the Philippine Savings Bank, Jaboneros Branch, Binondo, Manila. On January 14, the sheriff served the notice on the bank, prompting it to hold the small amount deposited with it by the petitioner. On January 29, she submitted to the bank an Order of Delivery of Money in order to apply the amount to the partial satisfaction of the writ.

This report was made on February 6, 2004. On March 8, 2004, the sheriff filed the return [15] stating further developments on the service of the writ. She was notified by the bank that the garnished amount was already available for pickup. She informed Maranaw's lawyer who gave the green light for her to serve the summons and writ to the petitioner. On March 1, she served the summons and writ on the petitioner and went to the bank to pick up the garnished amount of P38,567.50 in the form of a cashier's check. On March 8, she turned over the check to the Office of