

FIRST DIVISION

[G.R. No. 175299, September 14, 2011]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, THROUGH
THE HON. SECRETARY, HERMOGENES EBDANE, PETITIONER, VS.
ALBERTO A. DOMINGO, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

In this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, the Court is called upon to reverse and set aside the Decision^[2] dated May 19, 2006 and the Resolution^[3] dated October 25, 2006 of the Court of Appeals in CA-G.R. SP No. 78813, as well as to declare null and void the Decision^[4] dated February 18, 2003 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 18, in Civil Case No. 333-M-2002.

As culled from the records, the factual antecedents of the case are as follows:

On April 26, 2002, herein respondent Alberto A. Domingo filed a Complaint for Specific Performance with Damages^[5] against the Department of Public Works and Highways (DPWH), Region III, which was docketed as Civil Case No. 333-M-2002 in the RTC of Malolos, Bulacan, Branch 18. Domingo averred that from April to September 1992, he entered into seven contracts with the DPWH Region III for the lease of his construction equipment to said government agency.^[6] The lease contracts were allegedly executed in order to implement the emergency projects of the DPWH Region III, which aimed to control the flow of lahar from Mt. Pinatubo in the adjacent towns in the provinces of Tarlac and Pampanga. After the completion of the projects, Domingo claimed that the unpaid rentals of the DPWH Region III amounted to P6,320,163.05. Despite repeated demands, Domingo asserted that the DPWH Region III failed to pay its obligations. Domingo was, thus, compelled to file the above case for the payment of the P6,320,163.05 balance, plus P200,000.00 as moral and compensatory damages, P100,000.00 as exemplary damages, and P200,000.00 as attorney's fees.^[7]

Thereafter, summons was issued by the RTC. The Proof of Service^[8] of the Sheriff dated May 9, 2002 stated, thus:

PROOF OF SERVICE

The undersigned personally served the copy of the Summons together with the complaint issued in the above-entitled case upon defendant The

Department of Public Works and Highways, Region III, San Fernando Pampanga on May 6, 2002 through Nora Cortez, Clerk III of said office as shown by her signature and stamped mark received by said office appearing on the original Summons.

WHEREFORE, the original Summons respectfully returned to the Court "DULY SERVED", for its record and information.

Malolos, Bulacan, May 9, 2002.

Subsequently, on July 30, 2002, Domingo filed a Motion to Declare Defendant in Default^[9] in view of the failure of the DPWH Region III to file a responsive pleading within the reglementary period as required under the Rules of Court. During the hearing of the motion on August 8, 2002, the RTC directed the counsel of Domingo to submit proof of service of said motion on the DPWH Region III. Thereafter, the motion was deemed submitted for resolution.^[10] Counsel for Domingo timely filed a Manifestation,^[11] showing compliance with the order of the trial court.

In an Order^[12] dated September 2, 2002, the RTC declared the DPWH Region III in default and thereafter set the date for the reception of Domingo's evidence *ex parte*.

After the *ex parte* presentation of Domingo's evidence, the RTC rendered judgment on February 18, 2003, finding that:

From the evidence presented by [Domingo], testimonial and documentary, it was convincingly proven that [Domingo] is entitled to the relief prayed for.

In his seven causes of actions, [Domingo] has religiously undertaken what is incumbent upon him in the contracts of lease signed by both [Domingo] and [the DPWH Region III]. As a matter of course, the [DPWH Region III] has the duty to pay [Domingo] the amount equivalent to the services performed by [Domingo] which [in] this case now amount to P6,320,163.05 excluding interest.

Considering that there was a long delay in the payment of the obligation on the part of the [DPWH Region III], Article 2209 of the New Civil Code finds application as to imputation of legal interest at six (6%) percent per annum, in the absence of stipulation of interest on the amount due.

With respect to the claim for attorney's fees, although as a general rule, attorney's fees cannot be rewarded because of the policy that no premium should be placed on the right to litigate, this rule does not apply in the case at bar in the face of the stubborn refusal of [the DPWH Region III] to respect the valid claim of [Domingo] x x x. Award of attorney's fees in the amount of P30,000.00 appears proper. Moreover, as to [the]

demand for moral and exemplary damages, the same are hereby denied for lack of persuasive and sufficient evidence.^[13]

Thus, the RTC disposed:

Wherefore, premises considered, judgment is hereby rendered in favor of plaintiff Alberto Domingo and against defendant DPWH Region III, ordering defendant to pay plaintiff:

1. the sum of Six Million Three Hundred Twenty Thousand One Hundred Sixty[-]Three and 05/100 Pesos (P6,320,163.05) representing the principal obligation of the defendant plus interest at six percent (6%) per annum from 1993 until the obligation is fully paid;
2. to pay attorney's fees in the total amount of Thirty Thousand Pesos (P30,000.00) and
3. to pay the costs of suit.^[14]

On March 12, 2003, Domingo filed a Motion for Issuance of Writ of Execution,^[15] asserting that the DPWH Region III failed to file an appeal or a motion for new trial and/or reconsideration despite its receipt of a copy of the RTC decision on February 19, 2003. On March 20, 2003, the RTC granted the aforesaid motion of Domingo.^[16] A Writ of Execution^[17] was then issued on March 24, 2003, commanding the sheriff to enforce the RTC Decision dated February 18, 2003.

On August 27, 2003, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG), filed with the Court of Appeals a Petition for Annulment of Judgment with Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction.^[18] The petition was docketed as CA-G.R. SP No. 78813. The Republic argued that it was not impleaded as an indispensable party in Civil Case No. 333-M-2002. The seven contracts sued upon in the trial court stated that they were entered into by the Regional Director, Assistant Regional Director and/or Project Manager of the DPWH Region III for and in behalf of the Republic of the Philippines, which purportedly was the real party to the contract. Moreover, the Republic averred that, under the law, the statutory representatives of the government for purposes of litigation are either the Solicitor General or the Legal Service Branch of the Executive Department concerned. Since no summons was issued to either of said representatives, the trial court never acquired jurisdiction over the Republic. The absence of indispensable parties allegedly rendered null and void the subsequent acts of the trial court because of its lack of authority to act, not only as to the absent parties, but even as to those present. The Republic prayed for the annulment of the RTC Decision dated February 18, 2003 and the dismissal of the said case, without prejudice to the original action being refiled in the proper court.

On May 19, 2006, the Court of Appeals promulgated its decision, dismissing the Petition for Annulment of Judgment filed by the Republic. The appellate court elaborated that:

The hair-splitting distinction being made by [the Republic] between the DPWH as a department under the Republic, and the Regional Office of the DPWH fails to persuade Us. Instead, We uphold [Domingo's] position that the regional office is an extension of the department itself and service of summons upon the former is service upon the latter. x x x.

x x x x

x x x [A] regional office of the DPWH is part of the composition of the department itself and is therefore, not an entity that is altogether separate from the department. This conclusion lends credence to [Domingo's] position that service of summons upon the regional office is service upon the department itself because the former is essentially part of the latter. Indeed, what militates heavily against [the Republic's] theory is the simple fact that the regional office is not a different entity at all, but, as can be gleaned from the manner of its creation, a part of the department itself, so much so that it does not even have a juridical personality of its own. x x x.

Anent the claim that the procedure for service of summons upon the Republic was not followed because service should have been made on the OSG or the Legal Service Department of the DPWH, We are likewise not persuaded. A perusal of the Revised Administrative Code of the Philippines suggests nothing of this import. x x x.

x x x x

Clearly, nothing [in the functions of the OSG] remotely suggests that service of summons upon the Republic should be made exclusively on the OSG. What the [provisions] merely state is that the OSG will represent the government in all proceedings involving it. It cannot be deduced nor implied from this, however, that summons should be served upon it alone.

The same conclusion applies to the legal service branch of the DPWH, as there is also nothing in the law that suggests that service of summons on the DPWH should be made upon it alone. x x x.

x x x x

Obviously, petitioner's conclusion that the proper procedure for service of summons was not observed is a mere conjecture because We find nothing in the provisions invoked by it that such indeed is the procedure sanctioned by law. We are thus inclined to give more credence to [the Republic's] argument that it was the regional office's fault if it failed to bring the subject case to the attention of the OSG for proper representation. To allow it to benefit from its own omission in order to evade its just and valid obligation would be the height of injustice.

Finally, anent the argument that the Republic is estopped from questioning the jurisdiction of the trial court, We rule in the negative. The existence of another case against the regional office of the DPWH

where the OSG appeared is of no moment as it concerns a totally different transaction. Thus, it would be erroneous for Us to rule on that basis alone, that the OSG is already acknowledging the service of summons upon the regional office, especially considering the categorical stand taken by the OSG on the matter in the case now before Us. Be that as it may, however, We still rule, as We have discussed above, that [Domingo's] position is more impressed with merit.

WHEREFORE, in view of the foregoing, the instant Petition for Annulment of Judgment is hereby DISMISSED.^[19]

The Republic filed a Motion for Reconsideration^[20] of the above decision, but the Court of Appeals denied the same in the assailed Resolution dated October 25, 2006.

Consequently, the Republic filed the instant petition before this Court. In a Resolution^[21] dated February 19, 2007, we denied the Republic's petition for failure to properly verify the petition and that the *jurat* in the verification and certification against forum shopping did not contain any competent evidence of the affiant's identity. In addition, the Integrated Bar of the Philippines (IBP) dues payment (under IBP O.R. No. 663485) of one of the counsels who signed the petition was not updated. The Republic filed a Motion for Reconsideration^[22] of the above resolution.^[23] On July 2, 2007, the Court resolved^[24] to grant the Republic's motion, thereby reinstating its petition.

In assailing the judgment of the Court of Appeals, the Republic brings to fore the following arguments:

I.

If in the act by which the Republic consents to be sued, no designation is made as to the officer to be served with summons, then the process can only be served upon the Solicitor General.

[II.]

The State is not bound by the errors or mistakes of its agents.

III.

Respondent can recover on the government contracts sued upon in Civil Case No. ^[3]33-M-2002 only on a quantum *meruit* basis.^[25]

In essence, the primary issue that must be resolved in the instant petition is whether the Court of Appeals correctly dismissed the Petition for Annulment of Judgment filed by the Republic.

Section 1, Rule 47^[26] of the Rules of Court provides for the remedy of annulment