

FIRST DIVISION

[G.R. No. 159421, August 20, 2008]

BENEDICTO B. POTENCIANO II, PETITIONER, VS. GREGORY P. BARNES, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] dated 26 August 2002 and the Resolution dated 8 August 2003 of the Court of Appeals in CA-G.R. SP No. 68359.

The Facts

In February 2000, GP Barnes Group of Companies hired petitioner Benedicto B. Potenciano II (Potenciano) as a member of the Management Committee of the Barnes Marketing Concept which held office in Ortigas Center, Pasig City. Potenciano was also designated as one of the managers of the London Underground Bar and Restaurant, another member-company of GP Barnes Group of Companies. In February 2001, Potenciano was assigned as Operations Manager of Executive Dinner Club International, also a member-company of GP Barnes Group of Companies.

On 9 May 2001, Potenciano filed with the Regional Trial Court of Muntinlupa City, Branch 276 (trial court) a complaint for damages against respondent Gregory P. Barnes (Barnes), the owner and president of GP Barnes Group of Companies, for alleged harassment and maltreatment.

On 11 May 2001, a certain Jaime S. Herrera (Mr. Herrera), a representative of E. Himan Law Office, secured from the trial court copies of the complaint with annexes and the summons intended for Barnes. Mr. Herrera indicated on the court's copy of the summons that E. Himan Law Office was Barnes' counsel. On the same date, the deputy sheriff issued a Return of Summons.

On 16 June 2001, Potenciano filed a motion to declare Barnes in default. On 22 June 2001, E. Himan Law Office, represented by Atty. Jose Valentino G. Dave (Atty. Dave), by way of special appearance for the sole purpose of questioning the validity of the service of summons, filed its Comment/Manifestation, manifesting that the law office does not represent Barnes because he has not yet engaged the services of the law office. Hence, the law office has no authority to bind Barnes.

On 12 July 2001, the trial court issued an Order of Default. On 30 July 2001, E. Himan Law Office, represented by Atty. Dave, by way of special appearance, filed an urgent motion for reconsideration of the default order, which the trial court denied.

On 8 August 2001, the trial court rendered a resolution, the dispositive portion of which reads:

Prescinding, judgment is rendered for Plaintiff [Benedicto B. Potenciano II], declaring Defendant Gregory Paul Barnes, by himself and severally, jointly with his companies, being GP Barnes Group of Companies, Barnes Marketing Concept, London Underground Bar and Restaurant and Executive Dinner Club International, with which Plaintiff was connected or working with, for sometime during his employment with Mr. Barnes, for damages and are therefore directed to personally, jointly and severally pay Plaintiff as follows:

1. One Million Pesos (P1,000,000.00) as and by way of moral damages;
2. Four Hundred Thousand Pesos (P400,000.00) as and by way of nominal damages;
3. Four Hundred Thousand Pesos (P400,000.00) as and by way of exemplary damages;
4. Two Hundred Thousand Pesos (P200,000.00) and Three Thousand Pesos (P3,000.00) per appearance, as and by way of attorney's fees; and
5. Costs of the suit.

It is SO ORDERED.^[3]

On 16 August 2001, Potenciano filed a Motion for Execution Pending Appeal. On 25 August 2001, Barnes, now formally represented by Diores Law Offices, filed a Motion for New Trial as Remedy Against Judgment by Default with Opposition to Execution Pending Appeal, which the trial court denied on 25 September 2001. Barnes moved for reconsideration, which the trial court denied in its Order dated 26 October 2001.

Barnes filed a Petition for Certiorari, Prohibition, and Mandamus, with prayer for a temporary restraining order or preliminary prohibitory injunction, praying for the nullification of the following orders and resolution of the trial court: (1) Order dated 12 July 2001; (2) Resolution dated 8 August 2001; (3) Order dated 25 September 2001; and (4) Order dated 26 October 2001.

On 26 August 2002, the Court of Appeals rendered a decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the PETITION FOR CERTIORARI, PROHIBITION and MANDAMUS is hereby GRANTED. Accordingly, the Orders dated July 12, 2001, September 25, 2001 and October 26, 2001 and Resolution dated August 8, 2001 are hereby declared NULL AND VOID.

Let the entire record of the case be remanded to the court a quo for further proceedings.

The application for issuance of a temporary restraining order and/or preliminary prohibitory injunction is hereby declared moot and academic.

SO ORDERED.^[4]

Potenciano moved for reconsideration, which the Court of Appeals denied. Hence, this petition for review.

The Ruling of the Trial Court

In its Order dated 25 September 2001, the trial court denied Barnes' Motion for New Trial. The trial court held that the sheriff did not commit fraud when he certified in his Return of Summons that Barnes was duly served with the summons when a representative of E. Himan Law Office, claiming as counsel of Barnes, secured a copy of the summons and the complaint against Barnes. The trial court ruled that when E. Himan Law Office received the copy of the complaint and the summons, it was acting on behalf of Barnes. Thus, Barnes was duly served with the summons through the voluntary appearance of his counsel on his behalf.

The Ruling of the Court of Appeals

The Court of Appeals held that there was no valid service of summons since neither Mr. Herrera nor E. Himan Law Office was the defendant. When Mr. Herrera, as a representative of E. Himan Law Office, received a copy of the summons, Barnes had not yet engaged the services of E. Himan Law Office. The Court of Appeals ruled that the sheriff did not exert any effort to comply with Section 6, Rule 14 of the Rules of Court, either by handing a copy of the summons to Barnes in person and should Barnes refuse to receive and sign the summons, by tendering it to him. Since there was no valid service of summons on Barnes, the trial court therefore did not acquire jurisdiction over Barnes.

The Issues

Potenciano raises the following issues:

1. Whether the Court of Appeals committed grievous error of law when it impliedly ruled in favor of the propriety of the remedy of special civil action of certiorari, prohibition, and mandamus; and
2. Whether the Court of Appeals committed grievous error of law when it ruled that the trial court did not acquire jurisdiction over the person of the respondent, and rendered the trial court's proceedings null and void.^[5]

The Ruling of the Court

We find the petition without merit.

Service of summons on the defendant is the means by which the court acquires jurisdiction over the defendant.^[6] Summons serves as a notice to the defendant that an action has been commenced against him, thereby giving him the opportunity to be heard on the claim made against him.^[7] This is in accordance with the constitutional guaranty of due process of law which requires notice and an opportunity to be heard and to defend oneself.

Section 6, Rule 14 of the Rules of Court underscores the importance of actual delivery or tender of the summons to the defendant himself: