

## SECOND DIVISION

[ G.R. NO. 163287, April 27, 2007 ]

### ORION SECURITY CORPORATION, PETITIONER, VS. KALFAM ENTERPRISES, INC., RESPONDENT.

#### RESOLUTION

##### QUISUMBING, J.:

For review on certiorari are the Decision<sup>[1]</sup> dated February 17, 2004 and Resolution<sup>[2]</sup> dated April 22, 2004 of the Court of Appeals in CA-G.R. CV No. 70565, which reversed the Decision<sup>[3]</sup> dated March 15, 2000 of the Regional Trial Court of Quezon City, Branch 215, in Civil Case No. Q-97-32024.

The facts, borne by the records, are as follows:

Petitioner Orion Security Corporation is a domestic private corporation engaged in the business of providing security services. One of its clients is respondent Kalfam Enterprises, Inc.

Respondent was not able to pay petitioner for services rendered. Petitioner thus filed a complaint<sup>[4]</sup> against respondent for collection of sum of money. The sheriff tried to serve the summons and a copy of the complaint on the secretary of respondent's manager. However, respondent's representatives allegedly refused to acknowledge their receipt. The summons and the copy of the complaint were left at respondent's office.<sup>[5]</sup>

When respondent failed to file an Answer, petitioner filed a motion to declare respondent in default.<sup>[6]</sup> The trial court, however, denied the motion on the ground that there was no proper service of summons on respondent.<sup>[7]</sup>

Petitioner then filed a motion for alias summons, which the trial court granted.<sup>[8]</sup> The process server again left the summons and a copy of the complaint at respondent's office through respondent's security guard, who allegedly refused to acknowledge their receipt.<sup>[9]</sup>

Again, respondent failed to file an Answer. On motion<sup>[10]</sup> of petitioner, respondent was declared in default.<sup>[11]</sup> Thereafter, petitioner was allowed to adduce evidence *ex parte*.

Respondent filed a motion for reconsideration<sup>[12]</sup> of the resolution declaring it in default. Respondent alleged the trial court did not acquire jurisdiction over its person due to invalid service of summons. The trial court denied the motion for reconsideration.<sup>[13]</sup>

On March 15, 2000, the trial court rendered a default judgment, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff Orion Security Corporation and against defendant Kalfam Enterprises, Inc., ordering said defendant to pay plaintiff the amounts as follows:

a) FIVE HUNDRED THIRTEEN THOUSAND EIGHT HUNDRED THIRTY NINE PESOS AND TWENTY SIX CENTAVOS (P513,839.26), Philippine Currency, as the total amount of the balance due to the plaintiff, plus interest thereon at the rate of twelve percent (12%) per annum, computed from August 29, 1997, the date of the filing of this case until said obligation is fully paid;

b) FIFTY ONE THOUSAND THREE HUNDRED EIGHTY THREE PESOS AND NINETY TWO CENTAVOS (P51,383.92), Philippine Currency, which is ten percent (10%) of the outstanding obligation, as attorney's fees;

c) FIVE THOUSAND PESOS (P5,000.00), Philippine Currency, as litigation expenses; and THREE THOUSAND FIVE HUNDRED SIXTY THREE PESOS AND TWENTY FIVE CENTAVOS (P3,563.25) for the costs of suit.

SO ORDERED.<sup>[14]</sup>

On appeal, the Court of Appeals held that summons was not validly served on respondent, decreeing thus:

WHEREFORE, in view of the foregoing, the appealed decision is REVERSED and SET ASIDE. The case is hereby REMANDED to the trial court for further proceedings upon valid service of summons to the parties concerned.

SO ORDERED.<sup>[15]</sup>

Petitioner's motion for reconsideration of the Court of Appeals' decision was denied. Hence, the instant petition raising the following as issues:

- I. WHETHER OR NOT THE HONORABLE COURT OF APPEALS' DECISION DATED FEBRUARY 17, 2004 AND ITS RESOLUTION DATED APRIL 22, 2004 ARE NULL AND VOID FOR FAILURE TO COMPLY WITH SEC. 14, ART. VIII OF THE 1987 CONSTITUTION;
- II. WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT THE TRIAL COURT HAS IN FACT ACQUIRED JURISDICTION OVER THE PERSON OF THE RESPONDENT DUE TO THE LATTER'S VOLUNTARY APPEARANCE IN THE PROCEEDINGS THEREIN;
- III. WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE SUBSTITUTED SERVICE OF SUMMONS EFFECTED UPON THE SECURITY GUARD OF THE RESPONDENT SHOULD BE DEEMED SUBSTANTIAL