

THIRD DIVISION

[G.R. NO. 172242, August 14, 2007]

PERKIN ELMER SINGAPORE PTE LTD., PETITIONER, VS. DAKILA TRADING CORPORATION, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

The case before this Court is a Petition for Review^[1] on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the Decision,^[2] dated 4 April 2006, of the Court of Appeals in CA-G.R. SP No. 78981, which affirmed the Orders, dated 4 November 2002^[3] and 20 June 2003,^[4] of the Mandaluyong City Regional Trial Court (RTC), Branch 212, in Civil Case No. MC99-605, which, in turn, denied the Motion to Dismiss and subsequent Motion for Reconsideration of herein petitioner **Perkin Elmer Singapore Pte Ltd.**

Petitioner is a corporation duly organized and existing under the laws of Singapore. It is not considered as a foreign corporation "doing business" in the Philippines. Herein respondent **Dakila Trading Corporation** is a corporation organized and existing under Philippine laws, and engaged in the business of selling and leasing out laboratory instrumentation and process control instrumentation, and trading of laboratory chemicals and supplies.

The antecedents of the present case are as follows:

Respondent entered into a Distribution Agreement^[5] on 1 June 1990 with **Perkin-Elmer Instruments Asia Pte Ltd.** (PEIA), a corporation duly organized and existing under the laws of Singapore and engaged in the business of manufacturing, producing, selling or distributing various laboratory/analytical instruments. By virtue of the said agreement, PEIA appointed the respondent as the sole distributor of its products in the Philippines. The respondent was likewise granted the right to purchase and sell the products of PEIA subject to the terms and conditions set forth in the Distribution Agreement. PEIA, on the other hand, shall give respondent a commission for the sale of its products in the Philippines.

Under the same Distribution Agreement, respondent shall order the products of PEIA, which it shall sell in the Philippines, either from PEIA itself or from **Perkin-Elmer Instruments (Philippines) Corporation** (PEIP), an affiliate of PEIA. PEIP is a corporation duly organized and existing under Philippine laws, and involved in the business of wholesale trading of all kinds of scientific, biotechnological, and analytical instruments and appliances. PEIA allegedly owned 99% of the shares of PEIP.

On 2 August 1997, however, PEIA unilaterally terminated the Distribution Agreement, prompting respondent to file before the RTC of Mandaluyong City,

Branch 212, a Complaint^[6] for Collection of Sum of Money and Damages with Prayer for Issuance of a Writ of Attachment against PEIA and PEIP, docketed as Civil Case No. MC99-605.

The RTC issued an Order,^[7] dated 26 March 1999, denying respondent's prayer for the issuance of a writ of attachment. The respondent moved for the reconsideration of the said Order but it was denied in another Order, dated 11 January 2000.^[8]

Respondent then filed Ex-Parte Motions for Issuance of Summons and for Leave of Court to Deputize Respondent's General Manager, Richard A. Tee, to Serve Summons Outside of the Philippines,^[9] which the RTC granted in its Order, dated 27 April 2000.^[10] Thus, an Alias Summons, dated 4 September 2000, was issued by the RTC to PEIA. But the said Alias Summons was served on 28 September 2000 and received by Perkinelmer Asia, a Singaporean based sole proprietorship, owned by the petitioner and, allegedly, a separate and distinct entity from PEIA.

PEIP moved to dismiss^[11] the Complaint filed by respondent on the ground that it states no cause of action. Perkinelmer Asia, on the other hand, through its counsel, sent letters, dated 12 October 2000^[12] and 15 November 2000,^[13] to the respondent and to the RTC, respectively, to inform them of the wrongful service of summons upon Perkinelmer Asia.

Accordingly, respondent filed an *Ex-Parte* Motion to Admit Amended Complaint, together with the Amended Complaint claiming that PEIA had become a sole proprietorship^[14] owned by the petitioner, and subsequently changed its name to Perkinelmer Asia. Being a sole proprietorship of the petitioner, a change in PEIA's name and juridical status did not detract from the fact that all its due and outstanding obligations to third parties were assumed by the petitioner. Hence, in its Amended Complaint^[15] respondent sought to change the name of PEIA to that of the petitioner. In an Order, dated 24 July 2001,^[16] the RTC admitted the Amended Complaint filed by the respondent. Respondent then filed another Motion^[17] for the Issuance of Summons and for Leave of Court to Deputize Respondent's General Manager, Richard A. Tee, to Serve Summons Outside the Philippines. In another Order, dated 4 March 2002,^[18] the RTC deputized respondent's General Manager to serve summons on petitioner in Singapore. The RTC thus issued summons^[19] to the petitioner. Acting on the said Order, respondent's General Manager went to Singapore and served summons on the petitioner.

Meanwhile, in an Order, dated 10 October 2001, the RTC denied the Motion to Dismiss filed by PEIP, compelling the latter to file its Answer to the Amended Complaint.

Petitioner subsequently filed with the RTC a Special Appearance and Motion to Dismiss^[20] respondent's Amended Complaint on 30 May 2002 based on the following grounds: (1) the RTC did not acquire jurisdiction over the person of the petitioner; (2) the respondent failed to state a cause of action against the petitioner because it is not the real party-in-interest; (3) even assuming *arguendo* that the respondent correctly filed the case against the petitioner, the Distribution Agreement which was the basis of its claim grants PEIA the right to terminate the contract at

any time; and (4) the venue was improperly laid. The RTC in its Order, dated 4 November 2002, denied petitioner's Motion to Dismiss, ratiocinating as follows:

Prescinding from the above arguments of both parties, the [RTC] is inclined to DENY the Motion to Dismiss.

A careful scrutiny on (sic) the allegation in the (Amended) Complaint would show that [herein respondent] alleges ownership by the [herein petitioner] of shares of stocks in the [PEIP]. Such allegation of ownership of shares of stocks by the [petitioner] would reveal that there is an allegation of personal property in the Philippines. Shares of stocks represent personal property of the shareholder. Thus, it follows that even though the Amended Complaint is primarily for damages, it does relate to a property of the [petitioner], to which the latter has a claim interest (sic), or an actual or contingent lien, which will make it fall under one of the requisite (sic) for extraterritorial service under Section 15, Rule 14, of the Rules of Court. Thus, it could be gainfully said that the summons had been validly served for [RTC] to acquire jurisdiction over the [petitioner].

The [petitioner] hinges its dismissal on the failure of the [respondent] to state a cause of action. The [RTC] would like to emphasize that in a Motion to Dismiss, it hypothetically admits the truth of the facts alleged in a complaint.

When the ground for dismissal is that the complaint states no cause of action, such fact can be determined only from the facts alleged in the complaint x x x and from no other x x x and the Court cannot consider other matters *aliunde* x x x. This implies that the issue must be passed upon on the basis of the allegations and declare them to be false, otherwise it would be a procedural error and a denial of due process to the [respondent] x x x.

The three (3) essential elements of a cause of action are the following:

- a) The plaintiff's legal rights;
- b) A correlative obligation of the defendant;
- c) The omission of the defendant in violation of the legal rights.

A cursory reading of the Amended Complaint would reveal that all of the essential elements of a cause of action are attendant in the Amended Complaint.

As for the contention that venue was improperly laid, x x x, the [RTC] in its ultimate desire that the ends of justice could be served in its fullest, cannot rule that venue was improperly laid.

x x x x

The stipulation as to the venue of a prospective action does not preclude the filing of the suit in the residence of the [respondent] under Section 2, Rule 4, Rules of Court, especially where the venue stipulation was imposed by the [petitioner] for its own benefits.

x x x x

The [RTC] further believes that it is imperative that in order to ferret out the truth, a full-blown trial is necessary for parties to be able to prove or disprove their allegations.^[21]

Petitioner moved for the reconsideration of the aforesaid Order but, it was denied by the RTC in its Order, dated 20 June 2003.

Consequently, petitioner filed a Petition for *Certiorari* under Rule 65 of the 1997 Revised Rules of Civil Procedure with application for temporary restraining order and/or preliminary injunction before the Court of Appeals alleging that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in refusing to dismiss the Amended Complaint. The Court of Appeals never issued any temporary restraining order or writ of injunction. On 4 April 2006, the Court of Appeals rendered a Decision affirming the RTC Orders of 4 November 2002 and 20 June 2003.

This brings us to the present Petition before this Court wherein petitioner raised the following issues.

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT RULING THAT THE SERVICE OF SUMMONS ON PETITIONER WAS DEFECTIVE AND THAT THE TRIAL COURT THUS FAILED TO ACQUIRE JURISDICTION OVER THE PERSON OF THE PETITIONER.

II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN RULING THAT THE "SOLE ISSUE" IN THE PETITION FOR *CERTIORARI* FILED BEFORE IT IS THE QUESTION OF WHETHER THE TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSON OF THE PETITIONER THROUGH THE EXTRATERRITORIAL SERVICE OF SUMMONS.

A.

WHETHER OR NOT THE COURT OF APPEALS SHOULD HAVE GRANTED THE PETITION FOR *CERTIORARI* AND REVERSED THE RTC ORDERS ON THE GROUND THAT THE AMENDED COMPLAINT FAILED TO STATE A CAUSE OF ACTION AGAINST PETITIONER.

1. BASED ON THE ALLEGATIONS IN THE *EX-PARTE* MOTION TO ADMIT AMENDED COMPLAINT, AMENDED COMPLAINT, AND ALL DOCUMENTS ATTACHED AND/OR RELATED THERETO, PETITIONER IS NOT THE REAL PARTY-IN-INTEREST DEFENDANT IN THE CASE BELOW.

2. ASSUMING ARGUENDO THAT RESPONDENT DAKILA FILED THIS CASE AGAINST THE CORRECT [PARTY], INASMUCH AS THE

DISTRIBUTION AGREEMENT DATED 1 JUNE 1990 GRANTS [PEIA] THE RIGHT TO TERMINATE THE CONTRACT AT ANY TIME, RESPONDENT DAKILA FAILS TO STATE A CAUSE OF ACTION IN THE CASE BELOW.

B.

WHETHER OR NOT THE COURT OF APPEALS SHOULD HAVE GRANTED THE PETITION FOR *CERTIORARI* AND REVERSED THE RTC ORDERS ON THE GROUND OF IMPROPER VENUE.

III.

WHETHER OR NOT PETITIONER IS ENTITLED TO A TEMPORARY RESTRAINING ORDER AND/OR WRIT OF INJUNCTION.

The foregoing issues raised by petitioner essentially requires this Court to make a determination of the (1) proper service of summons and acquisition of jurisdiction by the RTC over the person of the petitioner; (2) existence of a cause of action against petitioner in respondent's Amended Complaint; and (3) proper venue for respondent's civil case against petitioner.

Petitioner contends that Civil Case No. MC99-605 involves an *action for collection of sum of money and damages* arising from the alleged breach of the Distribution Agreement. The action is one *in personam*, or an action against a person based on his personal liability; and for the court *a quo* to acquire jurisdiction over the person of the petitioner, personal service of summons, and not extraterritorial service of summons, must be made within the state even if the petitioner is a non-resident. Petitioner avers that extraterritorial service of summons stated under Section 15, Rule 14 of the 1997 Revised Rules of Civil Procedure, is only proper in *in rem* and *quasi in rem* cases; thus, resort to an extraterritorial service of summons in the case at bar was erroneous. Petitioner asseverates that the allegations in the respondent's Amended Complaint that the petitioner has personal properties within the Philippines does not make the present case one that relates to, or the subject of which is, property within the Philippines warranting the extraterritorial service of summons under Section 15, Rule 14 of the 1997 Revised Rules of Civil Procedure. Petitioner states that for an action to be considered as one that relates to, or the subject of which is, property within the Philippines, the main subject matter of the action must be the property within the Philippines itself, and such was not the situation in this case. Likewise, the prayer in respondent's Amended Complaint for the issuance of a writ of attachment over the personal property of PEIP, which is 99% owned by petitioner (as the supposed successor of PEIA), did not convert the action from one *in personam* to one that is *quasi in rem*. Also, the petitioner points out that since the respondent's prayer for the issuance of a writ of attachment was denied by the RTC in its Order, dated 26 March 1999, then the nature of Civil Case No. MC99-605 remains *in personam*, contrary to the ruling of the Court of Appeals that by the attachment of the petitioner's interest in PEIP the action *in personam* was converted to an action *quasi in rem*. Resultantly, the extraterritorial service of summons on the petitioner was not validly effected, and did not give the RTC jurisdiction over the petitioner.

Petitioner further argues that the appellate court should have granted its Petition for *Certiorari* on the ground that the RTC committed grave abuse of discretion