

## THIRD DIVISION

[ G.R. No. 149625, September 28, 2007 ]

**WEENA EXPRESS, INC., PETITIONER, VS. GODOFREDO R. RAPACON AND RENE GUCON, RESPONDENTS.**

### D E C I S I O N

#### **AUSTRIA-MARTINEZ, J.:**

Assailed in the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court are the November 23, 2000 Decision<sup>[1]</sup> and July 26, 2001 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 57163.

The antecedent facts are not disputed.

At around 1:45 in the afternoon of March 14, 1995, a vehicular accident took place along the National Highway, Barangay Dolo, Bansalan, Davao del Sur, involving a cargo truck owned and operated by Godofredo Rapacon and driven by Rene Gucon (respondents);<sup>[3]</sup> and a bus, owned and operated by Weena Express, Inc. (petitioner), a domestic corporation, and driven by Sofonias Datulayta (Datulayta).<sup>[4]</sup>

The vehicular accident resulted in the death of a bystander, injuries to some bus passengers and damage to the cargo truck.

Respondents demanded payment of damages against petitioner but the latter did not heed said demands.<sup>[5]</sup> On July 26, 1995, respondents filed with the Regional Trial Court (RTC), Branch 18, Cotabato, a Complaint for Damages<sup>[6]</sup> against petitioner. Summons and copies of the complaint and its annexes were served on petitioner on August 4, 1995. Based on the Sheriff's Return of Service, service of summons was made upon petitioner on August 4, 1995 thru claim employee Rolando Devera (Devera), who voluntarily received copies of the same and claimed to be authorized to receive them for and in behalf of petitioner.<sup>[7]</sup>

Attempts were made to serve summons on Datulayta but to no avail.<sup>[8]</sup>

When petitioner failed to file its answer to the complaint within the reglementary period, respondents filed with the RTC a motion to declare petitioner in default, which the RTC granted in an Order dated September 6, 1995.<sup>[9]</sup> Hence, respondents presented their evidence *ex-parte*.

On October 6, 1996, petitioner asked the RTC to lift the order of default, explaining that it was due to the simple negligence of Devera that it failed to receive the summons and file an answer. The RTC refused.<sup>[10]</sup>

Petitioner filed a Motion for Reconsideration<sup>[11]</sup> which respondents opposed. The RTC denied the motion for reconsideration.<sup>[12]</sup>

Solely on the basis of respondents' evidence, the RTC rendered a Decision dated March 10, 1997, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs against the defendants, sentencing the latter jointly and solidarily:

1. To pay plaintiff Godofredo Rapacon P162,430.00 for repairs and replacement of the damaged parts of his cargo truck; P100,000.00 for loss of income; and P6,500.00 for expenses incurred for retrieving his cargo truck from the creek;
2. To pay plaintiff Rene Gucon P19,200.00 for loss of income;
3. To pay plaintiffs Rapacon and Gucon P50,000.00 exemplary damages; P10,000.00 litigation expenses; P30,000.00 attorney's fees and P1,000.00 court appearances fees, to be computed based on the record; and the costs of this suit.

SO ORDERED. <sup>[13]</sup>

Petitioner and Datulayta appealed to the CA, arguing that the RTC did not acquire jurisdiction over their persons because the summons was not properly served on them.<sup>[14]</sup> In the November 23, 2000 Decision assailed herein, the CA dismissed the complaint against Datulayta for failure of the RTC to acquire jurisdiction over him. The CA, however, affirmed the jurisdiction of the RTC over petitioner and upheld the RTC Decision with the following modification:

WHEREFORE, the appealed Decision is hereby AFFIRMED with the MODIFICATION that it is declared VOID insofar as defendant Sofonias Datulayta is concerned, and that the compensation for loss of income awarded to plaintiffs-appellees is DELETED.

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

Petitioner filed a Motion for Reconsideration but the CA denied the motion in the assailed Resolution dated July 26, 2001.

Hence, the present recourse by petitioner on the sole ground that the CA erred in ruling that the trial court acquired jurisdiction over it even when there was no valid service of summons upon it.<sup>[16]</sup>

We are not persuaded.

In affirming the jurisdiction of the RTC over petitioner, the CA held:

Defendant-appellant corporation contends that the trial court did not acquire jurisdiction over it due to improper service of summons. Specifically, it insists that the summons and copy of the complaint were served on it through a mere claim employee.

Section 13, Rule 14 of the 1997 Rules of Civil Procedure<sup>[17]</sup> provides:

Sec. 13. Service upon private domestic corporation or partnership. If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent or any of its directors.

x x x

In the case at bench, it is admitted that the summons and copy of the complaint were served on defendant-corporation through its claim employee, Rolando Devera. Devera falls squarely under the term "agent" who is authorized by law to receive the processes of the Court for defendant corporation. As a claim employee, Devera's primary duty is to follow up cases filed by and against defendant corporation. Hence, service of summons through him is proper and binding on the corporation.<sup>[18]</sup>

Petitioner, however, insists that Devera's position with petitioner is that of claim employee who does not belong to the managerial staff, but is considered as rank and file employee; and that being an ordinary rank and file employee, Devera's employment does not fall under the term "agent"; hence, service of summons upon him does not bind the petitioner.<sup>[19]</sup>

The CA is correct.

The procedural rule operative at the time of the filing of the complaint for damages was Section 13, Rule 14 of the (1964) Rules of Court,<sup>[20]</sup> which provides:

Sec. 13. *Service upon private domestic corporation or partnership.* – If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent, or any of its directors.<sup>[21]</sup>

In *Villa Rey Transit, Inc. v. Far East Motor Corporation*,<sup>[22]</sup> we characterized an agent in the contemplation of Rule 14 under the (1964) Rules of Court, as a representative so integrated with the corporation sued as to make it *a priori* supposable that he will realize his responsibilities and know what he should do with any legal papers served on him; one who performs vital functions in the corporation that it would be reasonable to presume that he would be able to discern the importance of papers delivered to him,<sup>[23]</sup> and be responsible enough to transmit the same to the corporation.<sup>[24]</sup>

Petitioner virtually admitted that the role of Devera in its operations is that of a representative in relation to cases involving it. In its Motion to Lift the Order of Default, petitioner alleged that it failed to file an answer due to the purported simple negligence of Devera who "x x x forgot to indorse the summons and copy of the complaint to the management due to his hectic schedule **in making follow-up of cases filed by and against the corporation.**"<sup>[25]</sup> Such statement amounts to an admission that Devera regularly indorses summonses and complaints to petitioner and attends to cases involving the latter.