

SECOND DIVISION

[G.R. NO. 149670, June 27, 2006]

**MILLEX CONSTRUCTION AND DEVELOPMENT CORPORATION,
PETITIONER, VS. CITYSTATE INSURANCE CORPORATION,
RESPONDENT.**

D E C I S I O N

CORONA, J.:

This is a petition for review on certiorari of the August 31, 2001 decision^[1] of the Court of Appeals in CA-G.R. CV No. 62361 affirming the decision of the Regional Trial Court (RTC) of Makati, Branch 66, in Civil Case No. 97-2043.^[2]

The facts are not disputed.

Respondent Citystate Insurance Corporation is a non-life domestic insurance corporation. In July 1996, one of its insured vehicles owned by one Restie Perez was hit by a truck owned by petitioner Millex Construction & Development Corporation. The insured vehicle sustained damages amounting to P251,135.86.

Respondent paid the insurance proceeds to Perez. The latter, in turn, executed a document releasing respondent from liability and subrogating it in his place.

Respondent then instituted an action for sum of money against petitioner in the RTC of Makati, Branch 66. Summons was served on petitioner through Ailyn Marasigan, secretary of the company.^[3]

Because petitioner failed to file a responsive pleading, petitioner was declared in default on motion of respondent. Thereafter, the case was submitted for decision on the basis of the complaint and the evidence presented.

On January 14, 1999, the trial court rendered a decision holding petitioner liable to pay respondent P252,215.80 plus interest of 6% per annum from the date of filing of the complaint until fully paid. This decision was received by petitioner on February 3, 1999.

On February 12, 1999, petitioner filed a notice of appeal alleging that the trial court never acquired jurisdiction over it for lack of proper service of summons. (Incidentally, the docket fees were paid only on March 2, 1999.)

On August 31, 2001, the Court of Appeals affirmed the trial court's decision *in toto*. It added that the petition should have been dismissed outright for petitioner's failure to pay the docket fees on time. The motion for reconsideration was denied. Hence, this petition.