Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE'S GENERAL INSURANCE CORPORATION, Petitioner,	**G.R. No. 204759**
-versus-	PERALTA, *J., Chairperson,* LEONEN, GESMUNDO, * REYES, J., JR., and HERNANDO.,* *JJ.*
EDGARDO GUANSING and EDUARDO LIZASO, Respondents.	**Promulgated:** November 14, 2018

x----------x

DECISION

LEONEN, *J.*:

As a general rule, personal service is the preferred mode of service of summons. Substituted service is the exception to this general rule. For the sheriff to avail of substituted service, there must be a detailed enumeration of the sheriff's actions showing that a defendant cannot be served despite diligent and reasonable efforts. These details are contained in the sheriff's return. Thus, the sheriff's return is entitled to a presumption of regularity. Courts may allow substituted service based on what the sheriff's return contains.[1]

Failure to serve summons means that the court did not acquire jurisdiction over the person of the defendant.[2] Absent proper service of

---

* On wellness leave.

1 *De Pedro v. Romasan Development Corporation*, 758 Phil. 706 (2014) [Per J. Leonen, Second Division].

2 Id.

summons, the court cannot acquire jurisdiction over the defendant unless there is voluntary appearance. The filing of an answer and other subsequent pleadings is tantamount to voluntary appearance.

This resolves a Rule 45 Petition for Review on Certiorari,[3] assailing the Court of Appeals December 10, 2012 Decision[4] in CA-G.R. CV No. 96720, which granted Edgardo Guansing (Guansing) and Eduardo Lizaso's (Lizaso) appeal[5] and set aside the Regional Trial Court January 28, 2010 Decision[6] and February 23, 2011 Order[7] in Civil Case No. 06115736.

On February 4, 2006, at around 9:45 a.m., Lizaso, Guansing's employee, was driving Guansing's truck along Legarda Street, Sampaloc, Manila when he hit the rear portion of Andrea Yokohama's (Yokohama) Isuzu Crosswind. The strong impact caused the Isuzu Crosswind to hit other vehicles, rendering it beyond repair.[8]

Yokohama's Isuzu Crosswind was insured with People's General Insurance Corporation. Yokohama filed a total loss claim under her insurance policy, which paid the full amount of ₱907,800.00 as settlement. Thus, People's General Insurance Corporation claimed to have been subrogated to all the rights and interests of Yokohama against Guansing.[9]

People's General Insurance Corporation sought from Guansing reimbursement of the total amount paid to Yokohama, less the salvage value of ₱470,000.00. Despite repeated demands, Guansing failed to reimburse the amount claimed.[10]

On August 28, 2006, People's General Insurance Corporation filed a Complaint for a sum of money and damages[11] against Guansing and Lizaso. The case was docketed as Civil Case No. 06115736 at Branch 41, Regional Trial Court, Manila City. The sheriff served the summons on Guansing's brother, Reynaldo Guansing.[12] The sheriff's return did not explain why summons was served on his brother instead of Guansing.[14]

---

3 *Rollo*, pp. 18–55.

4 Id. at 199–207. The Decision was penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia of the Fourth Division, Court of Appeals, Manila.

5 Id. at 163.

6 Id. at 146–149. The Decision was penned by Acting Presiding Judge Teresa P. Soriaso of Branch 41, Regional Trial Court, Manila.

7 Id. at 159–161. The Order was penned by Presiding Judge Rosalyn D. Mislos-Loja of Branch 41, Regional Trial Court, Manila.

8 Id. at 20–21.

9 Id. at 21–22.

10 Id.

11 Id. at 56–62.

12 Id. at 201.

14 Id. at 203–204.

The sheriff's return read:

> SHERIFF'S RETURN
>
> This is to certify:
>
> 1. That on September 20, 2006, I was able to served (sic) Summons, Complaint and its Annexes thereto attached, upon the defendant EDGARDO GUANSING at his given address in Barangay Tibagan, Bustos, Bulacan thru the assistance of Brgy. Kagawad Nestor Reyes and received by his brother REYNALDO GUANSING of sufficient discretion who acknowledge[d] the receipt hereof as evidence[d by] his signature.
>
> . . . .
>
> WHEREFORE, I respectfully return the original copy of Summons to the Honorable Court, DULY SERVED, to the defendant EDGARDO GUANSING . . . for its records and information.[15]

On September 27, 2006, Guansing filed a Motion to Dismiss[16] the complaint for lack of jurisdiction over his person. He alleged that he did not personally receive the summons. People's General Insurance Corporation argued that summons was properly served since substituted service was an alternative mode of service.[17]

In its October 11, 2006 Order,[18] the Regional Trial Court denied the Motion to Dismiss for lack of merit. On November 10, 2006, Guansing filed a Motion for Reconsideration[19] of the October 11, 2006 Order, which was also denied in the Regional Trial Court November 30, 2006 Order.[20] On January 28, 2007, Guansing filed a one (1)-page Answer[21] containing a general denial of the material allegations and causes of action in People's General Insurance Corporation's Complaint. He also reiterated that the Regional Trial Court had no jurisdiction over his person.[22]

The case was then set for pre-trial conference. On February 2, 2008, Guansing filed an Urgent Ex-Parte Motion for Postponement.[23] After several postponements by both parties, Guansing submitted his Pre-trial

---

15 Id. at 86.
16 Id. at 80.
17 Id. at 83.
18 Id. at 89. The Order was penned by Judge Vedasto B. Marco of Branch 41, Regional Trial Court, Manila.
19 Id. at 91–92.
20 Id. at 100. The Order was penned by Judge Vedasto B. Marco of Branch 41, Regional Trial Court, Manila.
21 Id. at 102.
22 Id. at 23.
23 Id. at 128.

Brief[23] dated March 8, 2008, where he again raised the issue of lack of jurisdiction over his person.[24]

On December 5, 2008, People's General Insurance Corporation filed a Motion to Render Judgment on the Pleadings,[25] which was granted by the Regional Trial Court. In its January 28, 2010 Decision,[26] the Regional Trial Court ruled against Guansing, and ordered him to pay People's General Insurance Corporation the remaining cost of the Isuzu Crosswind, attorney's fees, and costs of suit.[27] The dispositive portion of this Decision read:

> WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendant Edgardo Guansing, ordering the latter to pay the former the following:
>
> 1. The sum of P437,800 for the reimbursement of the remaining cost of the Isuzu Crosswind plus twelve percent (12%) interest from August 28, 2006, the date of the filing of this case, until fully paid;
>
> 2. The sum of P50,000.00 as attorney's fees;
>
> 3. Costs of the suit.
>
> SO ORDERED.[28]

On March 11, 2010, Guansing filed his Motion for Reconsideration,[29] where he reiterated his contention that the Regional Trial Court did not acquire jurisdiction over his person due to invalid service of summons. In its February 23, 2011 Order,[30] the Regional Trial Court denied Guansing's Motion for Reconsideration.

On March 8, 2011, Guansing filed an appeal[31] before the Court of Appeals. In a December 10, 2012 Decision,[32] the Court of Appeals ruled in Guansing's favor and held that the Regional Trial Court did not acquire jurisdiction over him because summons was improperly served on his brother. Moreover, the sheriff did not provide an explanation on why the summons was not personally served upon him. It further remanded the case to the Regional Trial Court. The dispositive portion of the Court of Appeals December 10, 2012 Decision read:

---

23 Id. at 133–134.
24 Id. at 24–25.
25 Id. at 135–140.
26 Id. at 146–149.
27 Id. at 25.
28 Id. at 149.
29 Id. at 151–152.
30 Id. at 159–161.
31 Id. at 163.
32 Id. at 199–207.

> **WHEREFORE**, premises considered, the appeal is **GRANTED**. The January 28, 2010 Decision and the February 23, 2011 Order of the Regional Trial Court of Manila, Branch 41, in Civil Case No. 06-115736 are **SET ASIDE**. Let the case be **REMANDED** to the said trial court for further proceedings which shall include the valid service of summons.
>
> **SO ORDERED**.[36] (Emphasis in the original)

On January 29, 2013, People's General Insurance Corporation filed a Petition for Review[37] before this Court.

The issues for this Court's resolution are as follows:

First, whether or not the Regional Trial Court acquired jurisdiction over the person of respondent Edgardo Guansing through service of summons; and

Second, whether or not respondent Edgardo Guansing, in filing his Answer and other subsequent pleadings, voluntarily submitted himself to the jurisdiction of the court.

Petitioner argues that the Court of Appeals incorrectly held that respondent's filing of an Answer and other subsequent pleadings did not amount to voluntary appearance.[39] It also argues that *Garcia v. Sandiganbayan*,[40] cited by respondent, is inapplicable since it erroneously expanded the plain and simple meaning of "voluntary appearance" in Rule 14, Section 20 of the Rules of Court.[41]

In his Comment,[42] respondent Guansing asserts that petitioner is misleading this Court by raising the issue on voluntary appearance. He stresses that the sole issue is whether or not there was valid service of summons; thus, the Court of Appeals ruled correctly in reversing the Regional Trial Court January 28, 2010 Decision and February 23, 2011 Order.

By way of reply, petitioner alleges that contrary to respondent Guansing's assertions, the issue on voluntary appearance is very much

---

36 Id. at 207.
37 Id. at 18–55.
39 Id. at 28–29.
40 618 Phil. 346 (2009) [Per J. Velasco, Third Division].
41 *Rollo*, p. 30.
42 Id. at 213–219.

related to the issue on service of summons, especially since he filed several pleadings and even sought affirmative reliefs.[39]

This Court finds the Petition meritorious.

I

The rule requiring jurisdiction over the parties is based on due process. Due process consists of notice and hearing. Notice means that persons with interests in the subject of litigation are to be informed of the facts and the law on which the complaint or petition is based for them to adequately defend their interests. This is done by giving the parties notification of the proceedings. On the other hand, hearing means that the parties must be given an opportunity to be heard or a chance to defend their interests. Courts are guardians of constitutional rights, and therefore, cannot deny due process rights while at the same time be considered to be acting within their jurisdiction.[40]

Jurisdiction over the parties is the power of the courts to make decisions that are binding on them. Jurisdiction over complainants or petitioners is acquired as soon as they file their complaints or petitions, while jurisdiction over defendants or respondents is acquired through valid service of summons or their voluntary submission to the courts' jurisdiction.[41]

Violation of due process is a jurisdictional defect. Hence, proper service of summons is imperative. A decision rendered without proper service of summons suffers a jurisdictional infirmity. In the service of summons, personal service is the preferred mode. As a rule, summons must be served personally on a defendant.

Rule 14, Sections 6 and 7 of the Rules of Court provide:

> Section 6. *Service in person on defendant.* — Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him.
>
> Section 7. *Substituted service.* — If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion

---

39 Id. at 259–267.

40 *De Pedro v. Romasan Development Corporation*, 748 Phil. 706 (2014) [Per J. Leonen, Second Division], citing *Manotoc v. CA*, 530 Phil. 454 (2006) [Per J. Velasco, Jr., Third Division].

41 Id.

> then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.

This Court has consistently held that jurisdiction over a defendant is acquired upon a valid service of summons or through the defendant's voluntary appearance in court. In *Interlink Movie Houses Inc. et al. v. Court of Appeals et al.*,[42] this Court reiterated:

> It is settled that jurisdiction over a defendant in a civil case is acquired either through service of summons or through voluntary appearance in court and submission to its authority. *In the absence of service or when the service of summons upon the person of the defendant is defective, the court acquires no jurisdiction over his person, and a judgment rendered against him is null and void.*
>
> In actions *in personam,* such as collection for a sum of money and damages, the court acquires jurisdiction over the person of the defendant through personal or substituted service of summons.
>
> Personal service is effected by handling a copy of the summons to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him . . . [43] (Emphasis supplied, citations omitted)

In the same case, this Court explained:

> It is settled that resort to *substituted service is allowed only if, for justifiable causes, the defendant cannot be personally served with summons within a reasonable time.* In such cases, substituted service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with a competent person in charge. *Because substituted service is in derogation of the usual method of service, and personal service of summons is preferred over substituted service, parties do not have unbridled right to resort to substituted service of summons.*[44] (Emphasis supplied)

Sheriffs, in doing substituted service, must strictly comply with the prescribed requirements and circumstances authorized by the rules. In *Manotoc v. Court of Appeals*:[45]

> (1) Impossibility of Prompt Personal Service

---

42 G.R. No. 203298, January 17, 2018 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/january2018/203298.pdf> [Per J. Martires, Third Division].

43 Id. at 5.

44 Id. at 6.

45 530 Phil. 454 (2006) [Per J. Velasco, Third Division].

The party relying on substituted service or the sheriff must show that defendant cannot be served promptly or there is impossibility of prompt service. Section 8, Rule 14 provides that the plaintiff or the sheriff is given a "reasonable time" to serve the summons to the defendant in person, but no specific time frame is mentioned. "Reasonable time" is defined as "so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party." Under the Rules, the service of summons has no set period. However, when the court, clerk of court, or the plaintiff asks the sheriff to make the return of the summons and the latter submits the return of summons, then the validity of the summons lapses. The plaintiff may then ask for an alias summons if the service of summons has failed. *What then is a reasonable time for the sheriff to effect a personal service in order to demonstrate impossibility of prompt service? To the plaintiff, "reasonable time" means no more than seven (7) days since an expeditious processing of a complaint is what a plaintiff wants. To the sheriff, "reasonable time" means 15 to 30 days because at the end of the month, it is a practice for the branch clerk of court to require the sheriff to submit a return of the summons assigned to the sheriff for service.* The Sheriff's Return provides data to the Clerk of Court, which the clerk uses in the Monthly Report of Cases to be submitted to the Office of the Court Administrator within the first ten (10) days of the succeeding month. Thus, one month from the issuance of summons can be considered "reasonable time" with regard to personal service on the defendant.

For substituted service of summons to be available, there must be several attempts by the sheriff to personally serve the summons within a reasonable period of one month which eventually resulted in failure to prove impossibility of prompt service. "Several attempts" mean at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.

(2) Specific Details in the Return

The sheriff must describe in the Return of Summons the facts and circumstances surrounding the attempted personal service. The efforts made to find the defendant and the reasons behind the failure must be clearly narrated in detail in the Return. The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. The form on Sheriff's Return of Summons on Substituted Service prescribed in the Handbook for Sheriffs published by the Philippine Judicial Academy requires a narration of the efforts made to find the defendant personally and the fact of failure. Supreme Court Administrative Circular No. 5 dated November 9, 1989 requires that "impossibility of prompt service should be shown by stating the efforts made to find the defendant personally and the failure of such efforts," which should be made in the proof of service.

(3) A Person of Suitable Age and Discretion

> If the substituted service will be effected at defendant's house or residence, it should be left with a person of "suitable age and discretion then residing therein." A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. "Discretion" is defined as "the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed". Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the "relation of confidence" to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipient's relationship with the defendant is, and whether said person comprehends the significance of the receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.
>
> (4) A Competent Person in Charge
>
> If the substituted service will be done at defendant's office or regular place of business, then it should be served on a competent person in charge of the place. Thus, the person on whom the substituted service will be made must be the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. Again, these details must be contained in the Return.[52] (Emphasis supplied, citations omitted)

In this case, the basis for resorting to substituted service on respondent Guansing's brother is not provided for in the Sheriff's Return,[53] which read:

> SHERIFF'S RETURN
>
> This is to certify:
>
> 1. That on September 20, 2006, I was able to served (sic) Summons, Complaint and its Annexes thereto attached, upon the defendant EDGARDO GUANSING at his given address in Barangay Tibagan, Bustos, Bulacan thru the assistance of Brgy. Kagawad Nestor Reyes and received by his brother REYNALDO GUANSING of sufficient discretion who acknowledge[d] the receipt hereof as evidence[d by] his signature.
>
> . . . .

---

52 Id. at 468–471.

53 *Rollo*, p. 79.

> WHEREFORE, I respectfully return the original copy of Summons to the Honorable Court, DULY SERVED, to the defendant EDGARDO GUANSING . . . for its records and information.

The Sheriff's Return did not contain a specific narration of the serious efforts to attempt to serve the summons on the person of respondent Guansing.

Although Rule 131, Section 3(m) of the Rules of Court provides that there is a disputable presumption that "official duty has been regularly performed," in this case, presumption of regularity does not apply.

To enjoy the presumption of regularity, a sheriff's return must contain: (1) detailed circumstances surrounding the sheriff's attempt to serve the summons on the defendant; and (2) the specifics showing impossibility of service within a reasonable time.[55] Based on these requirements, a sheriff's return is merely pro forma.

In *Manotoc v. Court of Appeals*,[56] this Court explained that the presumption of regularity in the issuance of the sheriff's return does not apply to patently defective returns. In the case at bar, the Sheriff's Return contained no statement on the efforts or attempts made to personally serve the summons. It was devoid of details regarding the service of summons. Thus, it was defective.

In this case, the sheriff should have established the impossibility of prompt personal service before he resorted to substituted service. Impossibility of prompt personal service is established by a sheriff's failure to personally serve the summons within a period of one (1) month. Within this period, he or she must have had at least three (3) attempts, on two (2) different dates, to personally serve the summons. Moreover, he or she must cite in the sheriff's return why these attempts are unsuccessful.[57]

Sheriffs are tasked to discharge their duties on the service of summons with care, diligence, and promptness so as not to affect the speedy disposition of justice. They are compelled to give their best efforts to accomplish personal service of summons on a defendant.[58] Based on the Sheriff's Return in this case, the sheriff clearly failed to meet this requirement.

---

55 *De Pedro v. Romasan Development Corp.*, 748 Phil. 706 (2014) [Per. J. Leonen, Second Division].

56 530 Phil. 454 (2006) [Per J. Velasco, Third Division], citing *Veturanza v. Court of Appeals*, 240 Phil. 306 (1987) [Per J. Padilla, Second Division].

57 *Interlink Movie Houses Inc. et. al. v. Court of Appeals et. al.*, G.R. No. 203298, January 17, 2018 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/january2018/203298.pdf> [Per J. Martires, Third Division].

58 Id. at 7.

II

However, by filing his answer and other pleadings, respondent Guansing is deemed to have voluntarily submitted himself to the jurisdiction of the court. Generally, defendants voluntarily submit to the court's jurisdiction when they participate in the proceedings despite improper service of summons.[52]

Rule 14, Section 20 of the Rules of Court states:

> Section 20. *Voluntary appearance.* — The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance.

In *Navale et al. v. Court of Appeals et al.*:[53]

> Defects of summons are cured by voluntary appearance and by the filing of an answer to the complaint. A defendant [cannot] be permitted to speculate upon the judgment of the court by objecting to the court's jurisdiction over its person if the judgment is adverse to it, and acceding to jurisdiction over its person if and when the judgment sustains its defense.
>
> Any form of appearance in court by the defendant, his authorized agent or attorney, is equivalent to service except where such appearance is precisely to object to the jurisdiction of the court over his person.[54]

In *G.V. Florida Transport, Inc. v. Tiara Commercial Corporation*:[55]

> There is voluntary appearance when a party, without directly assailing the court's lack of jurisdiction, seeks affirmative relief from the court. When a party appears before the court without qualification, he or she is deemed to have waived his or her objection regarding lack of jurisdiction due to improper service of summons.[56] (Citations omitted)

---

52 *Prudential Bank v. Magdamit, Jr.*, 746 Phil. 649 (2014) [Per J. Perez, First Division].

53 324 Phil. 70 (1996) [Per J. Romero, Second Division]. *See also La Naval Drug Corporation v. Court of Appeals*, 306 Phil. 84 (2004) [Per J. Vitug, En Banc].

54 Id. at 78, *citing Carballo v. Encarnacion*, 92 Phil. 974 (1953) [Per J. Montemayor, First Division] and *Republic v. Ker & Company, Ltd.*, 124 Phil. 822 (1966) [Per J. Bengzon, J.P., En Banc].

55 G.R. No. 201378, October 18, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/october2017/201378.pdf> [Per J. Jardeleza, First Division].

56 Id. at 11.

Rapid City Realty Development Corporation v. Villa[64] laid down the rules on voluntary appearance as follows:

> (1) Special appearance operates as an exception to the general rule on voluntary appearance;
>
> (2) Accordingly, *objections to the jurisdiction of the court* over the person of the defendant *must be explicitly made, i.e., set forth in an unequivocal manner;* and
>
> (3) Failure to do so *constitutes voluntary submission to the jurisdiction of the court, especially in instances where a pleading or motion seeking affirmative relief is filed and submitted to the court for resolution.*[65] (Emphasis supplied)

Respondent Guansing filed his: (1) Answer dated January 28, 2007; (2) Pre-trial Brief dated February 27, 2007; (3) Urgent Ex-parte Motion for Postponement dated February 2, 2008; (4) Motion for Reconsideration dated March 8, 2010; and (5) Notice of Appeal dated March 8, 2011. His filing of these pleadings amounts to voluntary appearance. He is considered to have submitted himself to the court's jurisdiction, which is equivalent to a valid service of summons. By filing numerous pleadings, he has confirmed that notice has been effected, and that he has been adequately notified of the proceedings for him to sufficiently defend his interests.

In arriving at its Decision, the Court of Appeals erroneously relied on *Garcia v. Sandiganbayan*,[66] which involved two (2) forfeiture cases of alleged ill-gotten wealth. The first case involved ₱143,052,015.29 and the second case involved ₱202,005,980.55, both amounts were amassed by retired Major General Carlos F. Garcia (Major General Carlos) and his family.

After the filing of the first case, summons was issued and served on Major General Carlos at his place of detention. According to the November 2, 2005 Sheriff's Return, the summons was duly served on "respondent[s] Garcias." Instead of an answer, Major General Carlos' wife, Clarita Garcia (Clarita), filed a motion to dismiss on the ground of lack of jurisdiction over her person.

On the second case, the sheriff served the summons on July 12, 2005. In his July 13, 2005 Sheriff's Return, the sheriff stated that he gave the summons to the Officer-in-Charge/Custodian of the Philippine National Police Detention Center, who in turn handed them to Major General Carlos, who signed his receipt of the summons with the qualifying note: "I'm

---

64 626 Phil. 211 (2010) [Per J. Carpio Morales, First Division].
65 Id. at 216.
66 618 Phil. 346 (2009) [Per J. Velasco, Third Division].

receiving the copies of Clarita, Ian Carl, Juan Paolo & Timothy—but these copies will not guarantee it being served to the above-named (sic)."[67]

This Court ruled that substituted service made on Clarita and her children were irregular and defective because the service of summons made on Major General Carlos did not comply with the requirements of a valid substituted service. It ruled that there was no voluntary appearance because Clarita's pleadings did not show that she voluntarily appeared without qualification. In the first case, she filed a: (a) motion to dismiss; (b) motion for reconsideration and/or to admit answer; (c) second motion for reconsideration; (d) motion to consolidate forfeiture case with plunder case; and (e) motion to dismiss and/or to quash. In the second case, she filed a: (a) motion to dismiss and/or to quash; and (b) motion for partial reconsideration.

This Court held that the pleadings filed were "solely for special appearance with the purpose of challenging the jurisdiction of the [Sandiganbayan] over her person and that of her three children"[68] and that all throughout, she never abandoned her stance. Therefore, Clarita and her sons did not voluntarily appear before the Sandiganbayan. Consequently, the Sandiganbayan did not acquire jurisdiction over the persons of Clarita and her children. The proceedings in the cases, insofar as she and her children are concerned, were declared void for lack of jurisdiction.

Garcia depended heavily on a single provision in the Rules of Court, specifically on the second sentence of the provision on voluntary appearance: "The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance."[69]

A plain and simple reading of the second sentence confirms that it pertains only to a motion to dismiss and not to any other pleading, thereby making it inapplicable. The provision is very clear, but this Court in *Garcia* gave it an expanded meaning when it ruled that "Clarita never abandoned when she filed her motions for reconsideration, even with a prayer to admit their attached *Answer Ex Abundante Ad Cautelam* . . . setting forth *affirmative defenses with a claim for damages*."[70]

Additionally, it is basic that a claim for damages constitutes a prayer for affirmative relief, which this Court has consistently considered as voluntary appearance. It is incongruous to ask the court for damages while asserting lack of jurisdiction at the same time.

---

67 Id. at 359.
68 Id. at 368.
69 Id. at 367, citing RULES OF COURT, Rule 14, sec. 20.
70 Id. at 368.

Associate Justice Antonio Carpio's dissent in *Garcia* is insightful. He disagreed with the conclusion that there was no voluntary appearance on Clarita's part. He opined that an appearance without expressly objecting to the jurisdiction of the court over the person was voluntary appearance.[71] Clarita failed to raise lack of jurisdiction over her person in her answer even if she filed it *ex abundante ad cautelam*. Likewise, she also failed to assert lack of jurisdiction when she filed her motion to transfer or consolidate the cases. In any case, by filing a motion to transfer or consolidate, she sought an affirmative relief, which in turn was a recognition of the court's authority. Having invoked the court's jurisdiction to secure affirmative relief, she could not now assert otherwise.

In *Oaminal v. Castillo,*[72] this Court further explained:

> The filing of Motions seeking affirmative relief — to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration — are considered voluntary submission to the jurisdiction of the court. *Having invoked the trial court's jurisdiction to secure affirmative relief, respondents cannot — after failing to obtain the relief prayed for — repudiate the very same authority they have invoked.*[73] (Emphasis supplied, citations omitted)

In this case, not only did respondent Guansing file his answer and pre-trial brief, but he also filed pleadings seeking affirmative reliefs such as the February 2, 2008 Urgent Ex-Parte Motion for Postponement and March 8, 2011 Notice of Appeal. Clearly, he cannot negate that affirmative reliefs were sought.

Moreover, respondent Guansing revealed that he was properly informed of the contents of petitioner's action against him when he filed his Motion for Reconsideration and Notice of Appeal.

Respondent Guansing, who actively participated in the proceedings, cannot impugn the court's jurisdiction. To reiterate, a long line of cases has established that the filing of an answer, among other pleadings, is considered voluntary appearance and vests the court with jurisdiction over the person. The rules are clear: the filing of an answer and other pleadings is considered voluntary appearance. Respondent Guansing's actions lead to no other conclusion other than he voluntarily appeared and submitted himself to the court's jurisdiction.

---

71 *Fernandez v. Court of Appeals,* 497 Phil. 748 (2005) [Per J. Chico-Nazario, Second Division].
72 459 Phil. 542 (2003) [Per J. Panganiban, Third Division].
73 Id. at 555.

Nonetheless, technicalities should not be used as a tool to undermine substantial justice. This Court has consistently held that if a rigid application of the procedural rules will obstruct rather than serve the interests of justice, courts may relax a strict application of the rules. As emphasized in *Peñoso v. Dona*:[74]

> The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. . . .[75] (Citation omitted)

Lastly, this Court notes that the Court of Appeals not only erred when it ruled that the court did not acquire jurisdiction over Guansing but more so when it remanded the case for further proceedings with a directive for the proper service of summons. A decision remanding the case for further proceedings serves no purpose if the court never acquired jurisdiction over the person of the defendant in the first place. Jurisdiction is the power of the courts to issue decisions that are binding on the parties. Since the Court of Appeals ruled that the trial court did not acquire jurisdiction over the person of Guansing, the trial court would have had no power to issue binding decisions over the parties. Hence, all the proceedings would have been considered void.

However, it is clear that the Regional Trial Court acquired jurisdiction over respondent Guansing through voluntary appearance. Necessarily, the proceedings before it in Civil Case No. 06115736 should be reinstated. Thus, the Court of Appeals erred when it nullified the January 28, 2010 Decision and February 23, 2011 Order of the Regional Trial Court.

WHEREFORE, the present petition is **GRANTED**. The Court of Appeals December 10, 2012 Decision in CA-G.R. CV No. 96720 is **REVERSED** and the Regional Trial Court January 28, 2010 Decision is **AFFIRMED**. Respondent Edgardo Guansing is ordered to pay:

1. The sum of ₱437,800.00 for the reimbursement of the remaining cost of the Isuzu Crosswind plus interest[76] of twelve percent (12%) per annum from August 28, 2006, the date of filing of this case, until June 30, 2013, and six percent (6%) per annum from July 1, 2013 until fully paid;

---

74 549 Phil. 39 (2007) [Per J. Austria-Martinez, Third Division].

75 Id. at 45–46.

76 *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

2. The sum of ₱50,000.00 as attorney's fees; and

3. Costs of the suit.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

On wellness leave
ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

On wellness leave
RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, as amended)

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 20 2018