



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

SUSAN A. YAP,
 Petitioner,

G.R. No. 196347

Present:

- versus -

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, J.J.

ELIZABETH LAGTAPON,
 Respondent.

Promulgated:

JAN 23 2017

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DECISION

CAGUIOA, J.:

The presumption of regularity in the performance of official duties is an aid to the effective and unhampered administration of government functions. Without such benefit, every official action could be negated with minimal effort from litigants, irrespective of merit or sufficiency of evidence to support such challenge. To this end, our body of jurisprudence has been consistent in requiring nothing short of clear and convincing evidence to the contrary to overthrow such presumption. This case is no different.

The Case

In this Appeal by Certiorari¹ (Petition) filed under Rule 45 of the Rules of Court, petitioner Susan A. Yap (Yap) is assailing the Decision dated July 27, 2006² (questioned Decision) and Resolution dated February 23, 2011³ issued by the Court of Appeals - Twentieth (20th) Division (CA) in CA-G.R. SP No. 61944, which denied the Petition for Annulment of

¹ Rollo, pp. 12-31.

² Id. at 32-41. Penned by Associate Justice Priscilla Baltazar-Padilla, with Associate Justices Pampio A. Abarintos and Marlene Gonzales-Sison concurring.

³ Id. at 42-43. Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Agnes Reyes-Carpio and Eduardo B. Peralta, Jr. concurring.

Judgment (Petition for Annulment) dated November 8, 2000⁴ and the subsequent Motion for Reconsideration filed by petitioner Yap. The questioned Decision was rendered in connection with the Decision dated February 12, 1998⁵ (RTC Decision) of the Regional Trial Court of Bacolod City, Branch 46 (RTC) in the case filed by herein respondent Elizabeth Lagtapon (Lagtapon), entitled “*Elizabeth Lagtapon v. Susan Yap*” and docketed as Civil Case (CC) No. 97-9991.

The Facts

The factual antecedents, as summarized by the CA, are as follows:

On 9 October 1997, [respondent Lagtapon] instituted a civil suit against [petitioner Yap] for a sum of money with the Regional Trial Court of Negros Occidental docketed as Civil Case No. 97-9991 and the same was raffled off to the respondent court.

Summons was issued and as per return of service of summons dated 4 November 1997 prepared by the process server of the respondent court in the person of Ray R. Precioso, he served on November 4, 1997 the summons on [petitioner Yap] who, however, refused to acknowledge receipt thereof, thus, compelling him to tender the same and left (*sic*) a copy thereof for her.

As no answer was filed, [respondent Lagtapon] filed a motion to declare [petitioner Yap] in default dated 16 December 1997. The said motion was granted by the respondent court in an order issued on 12 January 1998 declaring [petitioner Yap] in default and allowing [respondent Lagtapon] to present her evidence ex-parte on 9 February 1998.

Accordingly, [respondent Lagtapon] adduced evidence in her favor ex-parte. On 10 February 1998, the respondent court issued an order admitting the documentary exhibits offered by [respondent Lagtapon].

On 12 February 1998, the respondent court rendered the challenged Decision in favor of [respondent Lagtapon] and against [petitioner Yap]. Under date of 6 March 1998, [respondent Lagtapon] filed a motion for execution which was favorably acted upon by the respondent court through an order of 21 May 1998.

The Ex-Officio Provincial Sheriff for Negros Occidental issued a notice of sale on execution dated 25 September 2000 setting the auction sale of petitioner's property on 17 October 2000. The property of petitioner that was put up for execution sale consists of a parcel of land identified as Lot 11, Block 2 of the subdivision plan (LRC) Psd-91608 covered by Transfer Certificate of Title No. T-110467 situated at Herminia Street, Villa Valderrama (*sic*), Barangay Mandalagan, Bacolod City.

⁴ Id. at 44-57.

⁵ Id. at 68-72. Penned by Presiding Judge Emma C. Labayen.



On or about 11 October 2000, Joey de la Paz, to whom [petitioner Yap] mortgaged the same property, informed her that when he asked his secretary to secure a copy of the title covering the property from the Registry of Deeds of Bacolod City, it was found out that annotated on the title is a notice of embargo relative to Civil Case No. 97-9991, that a notice of sale on execution had already been issued and that the said property was scheduled to be sold at auction on 17 October 2000.

Immediately upon receiving such information, [petitioner Yap] proceeded to the Hall of Justice to verify the truthfulness thereof. It was only then that she discovered that she was sued by [respondent Lagtapon] and a judgment by default against her had long been issued.⁶

Proceeding from such developments, petitioner Yap filed the subject Petition for Annulment with the CA, assailing the RTC Decision on the ground that Summons was not validly served on her, which thus prevented the RTC from acquiring jurisdiction over her person.⁷ In particular, petitioner Yap alleged that at the time Summons was allegedly served on November 4, 1997 (as evidenced by the Return of Service),⁸ she was not residing in either of the addresses supplied by respondent Lagtapon in her Complaint,⁹ namely: (i) Herminia Street, Villa Valderama, Bacolod City, and (ii) Frankfurt Street, Jesusa Heights, Bacolod City.¹⁰

With respect to the first address, petitioner Yap claimed that while she used to reside therein, she had already moved out from the said address sometime in June 1997 and started leasing out the same on July 1998.¹¹ Hence, the Summons could not have been served on her on November 4, 1997, as she had already vacated from the said address by then.

Meanwhile, regarding the second address, petitioner Yap averred that she never resided at any such place.¹² Allegedly, at the time of the service of Summons, she was residing somewhere else, specifically in “Frankfurt Street, Sunshine Valley Subdivision, Barangay Estefania, Bacolod City” (as compared to “Frankfurt Street, Hesusa (*sic*) Heights, Bacolod City”), which she started leasing from June 1997 (upon vacating the first address) until September 1999.¹³

Simply put, petitioner Yap wholly denied the fact of service of Summons, as reflected in the Return of Service dated November 4, 1997¹⁴ accomplished by the RTC’s process server, Roy R. Precioso (Precioso).

⁶ Id. at 33-35.

⁷ Id. at 54.

⁸ Id. at 119-120.

⁹ Id. at 75-80.

¹⁰ Id. at 75.

¹¹ Id. at 35.

¹² Id.

¹³ Id. at 55.

¹⁴ Id. at 82.

Notably, it was stated in the said Return that the Summons, together with a copy of the Complaint and its annexes, was served **personally** on petitioner Yap on November 4, 1997, at about 4:35 p.m., and that the latter refused to sign the same, which prompted Precioso to tender and leave a copy of the Summons with petitioner Yap.¹⁵ While the place of service was not indicated in the Return, it should be noted that Precioso subsequently executed an Affidavit dated February 21, 2001, attesting to the fact that he served the Summons on petitioner Yap at “Frankfurt Street, Hesusa Village, Bacolod City”.¹⁶

Petitioner Yap likewise categorically denied receipt of the Motion to Declare in Default dated December 16, 1997.¹⁷ As indicated in the records, the said Motion was served on petitioner Yap via JRS Express mail, evidenced by JRS Express Cash Airbill No. 734216, and that a certain “Tommy Lim” received it.¹⁸ Petitioner Yap again claimed that she could not have received the same as she was never a resident in the address indicated in the said Airbill, which was also “Frankfurt Street, Hesusa (sic) Heights, Bacolod City”.¹⁹

On the other hand, respondent Lagtapon denied all the factual allegations in the Petition for Annulment to the effect that petitioner Yap was never served with Summons on the date indicated, and claimed that petitioner Yap was indeed aware of the proceedings, as borne out by the records of the RTC.²⁰ In her Answer to Petition for Annulment of Judgment dated March 7, 2001,²¹ respondent Lagtapon also raised the following grounds for the dismissal of the said Petition: (i) assuming *arguendo* that petitioner Yap did not receive the RTC Decision, she was constructively notified thereof as well as the corresponding Writ of Execution dated May 22, 1998 issued by the RTC when the Provincial Sheriff of Negros Occidental caused the registration and annotation of the Notice of Embargo or Levy at the back of petitioner Yap’s Transfer Certificate of Title No. T-110467.²² Hence, respondent Lagtapon argued that petitioner Yap’s failure to file a petition for relief from judgment within sixty (60) days from the time of the said annotation on May 26, 1998 rendered her Petition for Annulment dismissible;²³ (ii) petitioner Yap failed to file a petition for *certiorari* under Rule 65 to question the Order declaring her in default, the RTC Decision, or the Notice of Embargo or Levy;²⁴ and (iii) there was no extrinsic fraud extant from the records of the case that would serve as basis for the Petition for Annulment under Rule 47 of the Rules of Court.²⁵

¹⁵ Id.

¹⁶ Id. at 146. Annex “4” of the Answer to Petition for Annulment of Judgment dated March 7, 2001.

¹⁷ Id. at 48.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 120-121, 128.

²¹ Id. at 118-140.

²² Id. at 129-130.

²³ Id. at 129-131.

²⁴ Id. at 131-132.

²⁵ Id. at 132.

Ruling of the CA

In the questioned Decision, the CA denied the Petition for Annulment and upheld the validity of the service of Summons on petitioner Yap. The CA held that petitioner Yap's evidence failed to rebut the presumption of regularity, *i.e.*, that she failed to satisfactorily establish the fact that she was residing elsewhere during the time of the service of Summons, contrary to what was stated in the Return of Service.²⁶

In her Motion for Reconsideration dated April 15, 2008,²⁷ petitioner Yap claimed that the CA "overlooked very important documents which, if taken into consideration, could materially affect the decision it first arrived at".²⁸ In its Resolution dated February 23, 2011, the CA denied petitioner Yap's Motion for Reconsideration for lack of merit.²⁹

Hence, this Petition.

Proceedings before the SC

On June 9, 2011, respondent Lagtapon filed a Motion to Dismiss,³⁰ which was noted without action by the Court in its Resolution dated October 19, 2011.³¹ Thus, in her Comment dated January 12, 2012,³² respondent Lagtapon raised the sole issue of whether the remedy of Annulment of Judgment could still be availed of by petitioner Yap on the ground that "[e]xtrinsic [f]raud cannot be a valid ground if it was not availed of in a Motion for [New] Trial or Petition [f]or Relief of Judgment".³³

Accordingly, Yap filed her Reply dated September 17, 2012,³⁴ which was duly noted by the Court in a Resolution dated October 22, 2012.³⁵

Issue

At issue in this case is whether the CA committed reversible error in dismissing the Petition for Annulment and ruling that the RTC had validly acquired jurisdiction over petitioner Yap's person through service of summons.

²⁶ See *id.* at 37, 40.

²⁷ *Id.* at 147-153.

²⁸ *Id.* at 147.

²⁹ *Id.* at 42-43.

³⁰ *Id.* at 162-165.

³¹ *Id.* at 169.

³² *Id.* at 171-175.

³³ *Id.* at 171.

³⁴ *Id.* at 180-A to 183.

³⁵ *Id.* at 185.



The Court's Ruling

The Petition is denied.

In resolving the principal issue of this case, the Court shall separately discuss the matters raised by the opposing sides according to their nature.

I. Procedural Matters

Questions of fact are not cognizable in a Rule 45 petition.

At its core, the instant controversy hinges on whether Summons was validly served upon petitioner Yap or not. As discussed above, the parties' claims are diametrically opposing: on the one hand, petitioner Yap denies any service of Summons on her person, while on the other, the RTC's process server, Precioso, attests to having served Summons on petitioner Yap herself. Resolving this issue would thus necessitate a re-examination and re-weighting of the evidence on record.

In this regard, it has been repeatedly held by the Court that an appeal by *certiorari* under Rule 45 of the Rules is limited in its scope – the Court may only entertain questions of law³⁶ as jurisdiction over factual questions has been devolved to the trial courts as a matter of efficiency and practicality in the administration of justice. As an arbiter of laws, the Court is not expected to recalibrate the evidence already considered by inferior courts.³⁷ More importantly, to the extent that the evidence on record amply support the factual findings of the trial court, such findings are deemed conclusive and will not be disturbed on appeal.³⁸ On this score alone, the Petition, for raising factual issues, may already be denied pursuant to the Court's discretionary appellate jurisdiction.

The remedy of annulment of judgment under Rule 47 of the Rules is based either on extrinsic fraud or lack of jurisdiction.

In her Comment dated January 12, 2012, respondent Lagtapon insists that the instant Petition should be dismissed on the ground that the same is based on extrinsic fraud and that petitioner Yap's failure to avail of the remedies of new trial or petition for relief from judgment on such ground bars a resort to the remedy of annulment of judgment.³⁹

³⁶ RULES OF COURT, Rule 45, Section 1.

³⁷ See *Miro v. Vda. De Erederos*, 721 Phil. 772, 785-787 (2013).

³⁸ See *id.* at 784.

³⁹ See *rollo*, pp. 171-172.



Respondent Lagtapon's argument is misplaced.

The remedy of annulment of judgment, embodied in Rule 47 of the Rules, is extraordinary in character, and does not so easily and readily lend itself to abuse by parties aggrieved by final judgments. The grounds for a Rule 47 petition are: (i) extrinsic fraud and (ii) lack of jurisdiction.⁴⁰ Extrinsic fraud cannot be a valid ground if it had been availed of, or could have been availed of, in a motion for new trial or petition for relief.⁴¹ On the other hand, lack of jurisdiction means either lack of jurisdiction over the subject matter or nature of the action, or lack of jurisdiction over the person of the defendant.⁴²

In the Petition filed by petitioner Yap, she did not specify her exclusive reliance on extrinsic fraud as basis of her Petition under Rule 47. To be precise, petitioner Yap's claim of defective service of Summons brings to fore the lack of jurisdiction of the RTC over her person.⁴³

Moreover, the Court agrees with the position of petitioner Yap that she could no longer avail of the remedies of new trial or petition for relief from judgment because, as borne out by the records, she alleged to have become aware of the RTC Decision on October 11, 2000 at the latest, at the time when a writ of execution had already been issued.⁴⁴ Clearly, the remedies of appeal or new trial were no longer available to petitioner Yap. Under the Rules, execution shall issue upon the expiration of the period to appeal therefrom, if no appeal has been duly perfected.⁴⁵ In the same manner, a motion for new trial can only be filed within the period for taking an appeal.⁴⁶ Under the present circumstances, by the time petitioner Yap acquired knowledge of the proceedings, the period for perfecting an appeal had already lapsed. Likewise, the remedy of a petition for relief was no longer available, considering that a writ of execution had already been issued as early as May 22, 1998, which was already more than six (6) months after petitioner Yap acquired knowledge of the RTC Decision.⁴⁷

II. Substantive Matters

Be that as it may, even if the foregoing rules were to be relaxed in the interest of substantial justice, the Court finds no reason to arrive at a conclusion different from that reached by the CA. Upon judicious review of the records, the Court rules that the CA committed no reversible error in finding that Summons had been validly served on petitioner Yap.

⁴⁰ RULES OF COURT, Rule 47, Section 2.

⁴¹ Id.

⁴² *Yuk Ling Ong v. Co*, G.R. No. 206653, February 25, 2015, 752 SCRA 42, 48.

⁴³ See *rollo*, p. 27.

⁴⁴ Id. at 28.

⁴⁵ RULES OF COURT, Rule 39, Section 1.

⁴⁶ Id. at Rule 37, Section 1.

⁴⁷ *Rollo*, p. 28.

The Court explains.

It is axiomatic that a public official enjoys the presumption of regularity in the discharge of one's official duties and functions.⁴⁸ Here, in the absence of clear indicia of partiality or malice, the service of Summons on petitioner Yap is perforce deemed regular and valid. Correspondingly, the Return of Service of Precioso as process server of the RTC constitutes *prima facie* evidence of the facts set out therein.⁴⁹

The Return of Service states:

Respectfully returned to the Officer-in-Charge of this Court the herein-attached Summons dated October 15, 1997, DULY SERVED with the following information, to wit:

That on November 4, 1997 at about 4:35 p.m., **the undersigned served a copy of the complaint, its annexes as well as the Summons to the defendant Susan A. Yap, personally**, but she refused to sign said Summons despite the undersigned's explanation to her but nevertheless, the undersigned tendered and leave (*sic*) a copy for her.

For the information of this Honorable Court.

Bacolod City, November 4, 1997.⁵⁰ (Emphasis supplied)

Hence, as far as the circumstances attendant to the service of Summons are concerned, the Court has the right to rely on the factual representation of Precioso that service had indeed been made on petitioner Yap in person. A contrary rule would reduce the Court to a mere fact-finding tribunal at the expense of efficiency in the administration of justice, which, as mentioned earlier, is beyond the ambit of the Court's jurisdiction in a Rule 45 petition.

To successfully overcome such presumption of regularity, case law demands that the evidence against it must be *clear and convincing*; absent the requisite quantum of proof to the contrary, the presumption stands deserving of faith and credit.⁵¹ In this case, the burden of proof to discharge such presumption lay with petitioner Yap.⁵²

In her Petition, petitioner Yap makes much of the failure of Precioso to include the place of service in his Return, contrary to Section 18, Rule 14 of the Rules of Court,⁵³ relying on the pronouncements in *Santiago Syjuco*,

⁴⁸ See *Gatmaitan v. Gonzales*, 525 Phil. 658, 671 (2006).

⁴⁹ See *Guanzon v. Arradaza*, 539 Phil. 367, 375 (2006).

⁵⁰ *Rollo*, p. 82.

⁵¹ *Guanzon v. Arradaza*, supra note 49.

⁵² See *Office of the Ombudsman v. Manalastas*, G.R. No. 208264, July 27, 2016, p. 8.

⁵³ *Rollo*, p. 22.



Inc. v. Castro.⁵⁴ Notably, however, the circumstances attendant in that case are not on all fours with the facts at hand. In *Syjuco*, which cited *Delta Motor Sales Corporation v. Mangosing*,⁵⁵ the service of Summons involved a juridical entity and the crux of the defect there was the process server's failure to properly identify the person served inasmuch as Section 11 of Rule 14 of the Rules provides an exclusive list of persons that may be served Summons when the defendant is a corporation. Here, the disputed service of Summons was made personally upon Yap as defendant in CC No. 97-9991 and was made pursuant to Section 6 of the said Rule.

Moreover, and as previously adverted to, while such detail was indeed lacking in the said Return, the Court cannot ignore the fact that Precioso subsequently executed an Affidavit supplying the place of service, which, to the mind of this Court, constitutes substantial compliance with the Rules. On this note, the Court agrees with the following disquisition of the CA:

Petitioner puts in issue the place of her residence at the time of the alleged personal service of summons on her. However it is clear from the foregoing provisions of the Rules of Court that where there is personal service of summons, the place is of no moment. The place becomes material only where the service is by substituted service for in such a case the rule requires, in explicit manner, that the summons be served only either at the defendant's residence or his office/place of business. Insofar as personal service is concerned, what matters is that the defendant has been personally put on notice regarding the institution of an action against him and was furnished with copy (*sic*) of the summons and the complaint. Service to be done personally does not mean that service is possible only at the defendant's actual residence.⁵⁶

This presumption of regularity accorded to Precioso's Return of Service of Summons was, however, according to Petitioner Yap, sufficiently rebutted by the following pieces of evidence:⁵⁷

- (i) Affidavits of her neighbors attesting to the fact that Yap had been residing in "Frankfurt Street, Sunshine Valley Subdivision, Barangay Estefania, Bacolod City" beginning June 1997;⁵⁸
- (ii) Utility receipts bearing the name of her alleged landlord, Liberato Reyes;⁵⁹ and
- (iii) Mail matters from the RTC (*i.e.*, Orders dated January 12, 1998 and February 10, 1998) in envelopes which had handwritten notations reading "UNCLAIMED".⁶⁰

⁵⁴ 256 Phil. 621 (1989).

⁵⁵ 162 Phil. 804 (1976).

⁵⁶ *Rollo*, p. 37.

⁵⁷ *Id.* at 26-27.

⁵⁸ *Id.* at 24, 83-84.

⁵⁹ *Id.* at 24, 86-87.

⁶⁰ *Id.* at 25-26, 106 and 108.

Directly addressing this argument, the CA, in the questioned Decision, ruled that the above evidence was insufficient to support the claim that petitioner Yap was residing elsewhere at the time of the service of Summons and therefore inadequate to overcome the presumption of regularity.⁶¹ The Court agrees.

With respect to item (i), petitioner Yap would want the Court to rely on statements allegedly made by petitioner Yap's neighbors with respect to a purported lease contract between petitioner Yap and her landlord in lieu of a statement from the landlord himself. In the first place, the records are bereft of any lease contract involving the residence in the Sunshine Valley address. The Court affirms the following observations of the CA on this matter:

Petitioner contends that when the summons was allegedly served on her on 4 November 1997, she was not residing at both addresses given by private respondent but at Frankfurt Street, Sunshine Valley Subdivision. **The said alleged fact was not established by petitioner to the Court's satisfaction. No contract of lease covering her lease of the said place was given by petitioner. To prove the alleged lease, mere affidavits of alleged neighbors of her in the said area were submitted.** The affidavits of petitioner's witnesses were executed in October 2000 and both affiants made the impression that they could very well recall that petitioner's lease of the residential unit started in June of 1997 (and not other month of that year, for that matter). Nothing in said affidavits would explain why both affiants were able to retain that particular time in their minds as the date when petitioner commenced her lease of the aforesaid dwelling place. **No affidavit from the supposed lessor was submitted. Petitioner put as an excuse her former lessor's reluctance to get involved in the case. To the mind of the Court, the refusal of the said lessor to execute an affidavit for the alleged term, only casts more doubt on petitioner's claim to this effect.**

W[e] also wonder why petitioner agreed to lease the said place from Mr. Reyes from June, 1997 up to September, 1999 without any written lease contract. Petitioner herself is a lessor and she is that kind whose lease of her property even for a short time is covered by a written agreement as illustrated by two samples of such contract she attached to her petition involving her property at Herminia Street, one is for one year while the other, for a shorter term of six (6) months.⁶² (Emphasis supplied)

While it is true that the trial court cannot dictate what particular evidence the parties must present in order to prove their respective cases, the fact remains that petitioner Yap is still bound to present *clear and convincing* evidence to support her claims. Proceeding therefrom, the Court remains unconvinced that petitioner Yap had not and could not have been served Summons as specifically detailed in the Return of Service.

⁶¹ See id. at 37.

⁶² Id. at 37-38.

As to item (ii), petitioner Yap implores the Court to examine Central Negros Electric Coop., Inc. Provisionary Receipt No. 156556 dated November 12, 1997⁶³ and BACIWA Official Receipt No. 1738502 dated September 8, 1997⁶⁴ that are attached to a Letter dated February 16, 1998⁶⁵ purportedly written by Liberato Reyes and addressed to petitioner Yap.

However, examining the above documents, the Court finds them severely lacking in establishing petitioner Yap's residence in the Sunshine Valley address. First of all, both receipts do not indicate any address corresponding to the purported utility expenses incurred by petitioner Yap during the alleged lease. In the same manner, no address was mentioned in the Letter dated February 16, 1998 – what the Letter simply contained were vague statements regarding the collection of rentals.

Based on the said documents, it would be impossible for the Court to determine where petitioner Yap had her residence at the time Summons was served on her person. Granting that there was indeed a lessor-lessee relationship between petitioner Yap and Liberato Reyes, there is no showing that the property subject of the lease was “Frankfurt Street, Sunshine Valley Subdivision, Barangay Estefania, Bacolod City” and no place else. While it may be true that Liberato Reyes was a lessor of petitioner Yap, there is no way for this Court to know **which** address the latter was occupying specifically, for it may very well be that Liberato Reyes had other properties at the time the alleged lease was entered into. Moreover, that the handwritings thereon were indeed those of Liberato Reyes was not even satisfactorily established.

Most significant, however, is the glaring fact that the Letter was dated several months **after** the service of Summons on November 4, 1997. As pointedly stressed by the CA, that petitioner Yap was residing in a place owned by Liberato Reyes on February 16, 1998 is immaterial in proving her residence at an earlier time, *i.e.*, November 4, 1997.⁶⁶

Taken together, the above pieces of evidence do not, in any respect, tend to establish the fact that petitioner Yap was not served Summons on November 4, 1997 in “Frankfurt Street, Hesusa Village, Bacolod City”.⁶⁷

Finally, as regards item (iii), the Court finds that the mail matters from the RTC bearing handwritten notations “UNCLAIMED” are highly inconclusive to establish her non-residence at the Hesusa Village address, let alone her residence at the Sunshine Valley address, considering that they involved orders dated **after** the service of Summons on November of 1997. On the other hand, what is present in the records is evidence of receipt of the

⁶³ Id. at 86.

⁶⁴ Id. at 87.

⁶⁵ Id. at 85.

⁶⁶ See *id.* at 38.

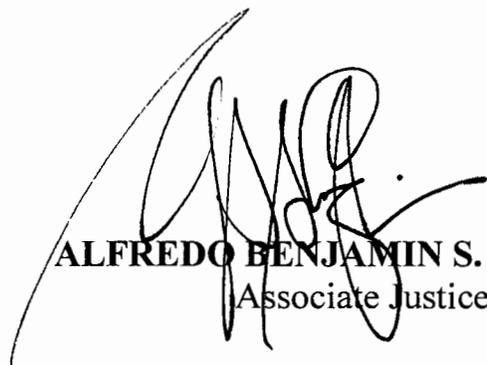
⁶⁷ Id. at 146. Annex “4” of the Answer to Petition for Annulment of Judgment dated March 7, 2001.

Motion to Declare in Default dated December 16, 1997 via JRS Express by a certain "Tommy Lim," albeit denied by petitioner Yap.⁶⁸

All told, the Court hereby upholds the finding of the CA in its questioned Decision that petitioner Yap's evidence does **not** constitute *clear and convincing evidence* to overturn the presumption of regularity attendant to the Return of Service. Following *Umandap v. Sabio, Jr.*,⁶⁹ self-serving assertions made by an aggrieved party are insufficient to disregard the statements made in the sheriff's certificate after service of Summons. In light of petitioner Yap's failure to rebut such presumption, the Court finds that the RTC properly acquired jurisdiction over petitioner Yap's person, which renders the RTC Decision valid. Accordingly, the CA correctly dismissed the subject Petition for Annulment.

WHEREFORE, the foregoing premises considered, the Court resolves to **DENY** the instant Petition and **AFFIRM** *in toto* the Decision dated July 27, 2006 and Resolution dated February 23, 2011 of the Court of Appeals - Twentieth (20th) Division in CA-G.R. SP No. 61944.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson




TERESITA J. LEONARDO-DE CASTRO **MARIANO C. DEL CASTILLO**
Associate Justice Associate Justice

⁶⁸ Id. at 48.

⁶⁹ 393 Phil. 657, 667 (2000).


ESTELA M. BERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice

