



Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**SALVADOR M. SOLIS for himself  
 and on behalf of the ESTATE OF THE  
 SPOUSES RAMON M. SOLIS, SR.  
 AND MARTA M. SOLIS,**

Petitioners,

-versus-

**MARIVIC SOLIS-LAYNES, AND/  
 OR THE OIC, PROVINCIAL  
 ENVIRONMENT AND NATURAL  
 RESOURCES OFFICE, ODIONGAN,  
 ROMBLON AND/OR PROVINCIAL  
 ASSESSOR, ROMBLON, ROMBLON  
 AND/OR REGISTER OF DEEDS OF  
 ROMBLON,**

Respondents.

**G.R. No. 235099**

Present:

CAGUIOA, J.,  
*Chairperson,*  
 INTING,  
 LOPEZ, M.,\*  
 GAERLAN, and  
 DIMAAMPAO, JJ.

Promulgated:

**March 29, 2023**

*MisDC Batt*

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**D E C I S I O N**

**GAERLAN, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated July 20, 2017 and Resolution<sup>3</sup> dated October 23, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 107226, which reversed the Decision<sup>4</sup> dated February 16, 2015 of the Regional Trial Court (RTC), Branch 82, Odiongan Romblon in Civil Case No. OD-943. The CA dismissed the Complaint for Quieting of Title or Reconveyance or Property and/or For Declaration of Nullity of Tax Declaration, Free Patent and Original Certificate of Title<sup>5</sup> (complaint) filed by Salvador M. Solis (Salvador) for himself and on behalf of the Estate of the late Spouses Ramon

\* Per Raffle dated December 1, 2022.

<sup>1</sup> *Rollo*, pp. 9-28.

<sup>2</sup> Id. at 30-36; penned by Associate Justice Ricardo R. Rosario (now a Member of this Court) with Associate Justices Edwin D. Sorongon and Maria Elisa Sempio Diy, concurring.

<sup>3</sup> Id. at 38.

<sup>4</sup> Id. at 39-41; penned by Executive Judge Jose M. Madrid.

<sup>5</sup> Id. at 2-12.

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M. Solis, Sr. (Ramon) and Marta M. Solis (Spouses Solis; collectively, petitioners).<sup>6</sup>

### The Antecedents

The Spouses Solis were the owners of a five-hectare untitled fishpond situated in Romblon. Said fishpond was covered by Tax Declaration (TD) No. 82,<sup>7</sup> and later by TD No. A08-005-00279<sup>8</sup> in the name of Ramon. During the lifetime of the Spouses Solis, they donated their properties to their children, except for a small lot in Quezon City and the subject fishpond.<sup>9</sup>

After the death of the Spouses Solis, Salvador, one of their children and heirs, discovered from the Provincial Assessor that the TD over the subject fishpond was changed allegedly to correct a “typographical error” that resulted in the change of the owner’s name from Ramon M. Solis, Sr. to Ramon M. Solis, Jr. (Ramon, Jr.; Salvador’s brother).<sup>10</sup>

When Ramon, Jr. died, the fishpond was included in his estate, which was settled by his heirs by virtue of a Deed of Extrajudicial Settlement of Estate. Consequently, a new TD (No. 00357<sup>11</sup>) over the fishpond was issued in the names of Ramon Jr.’s heirs, namely: Juana, Eric, Albert, and Marivic Solis-Laynes (Marivic).<sup>12</sup>

Thereafter, the subject fishpond was registered in the name of Marivic through Free Patent No. IV-045907-117191 issued by the Department of Environment and Natural Resources.<sup>13</sup>

Alleging fraud and unlawful intent on the part of Marivic — petitioners, filed the complaint before the RTC.<sup>14</sup>

It was also averred in the complaint that Marivic and her husband are now American citizens, but she may be served with summons at her address in Poblacion, San Agustin, Romblon.<sup>15</sup>

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<sup>6</sup> Id. at 36.

<sup>7</sup> Id. at 59.

<sup>8</sup> Id. at 60.

<sup>9</sup> Id. at 30-31.

<sup>10</sup> Id. at 31.

<sup>11</sup> Id. at 62.

<sup>12</sup> Id. at 31.

<sup>13</sup> Id.

<sup>14</sup> Id. at 2-12.

<sup>15</sup> Id.; see also id. at 43.

On March 14, 2014, the Postmaster of San Agustin, Romblon issued a certification stating summons was sent three times by registered mail to Marivic's stated address but was returned undelivered in all those instances because the recipient is "out of town/abroad" and the relatives refused to accept the summons.<sup>16</sup>

Consequently, Salvador moved that Marivic be served with summons by publication,<sup>17</sup> which the RTC granted through the Order<sup>18</sup> dated September 18, 2013.<sup>19</sup>

The RTC Order states:

Acting on the Motion For Leave To Serve Summons By Publication filed by plaintiff's (sic) counsel dated September 13, 2013 for being meritorious, the same is hereby granted.

**Let a summons by publication be served to defendant MARIVIC SOLIS LAYNES at her last known address at 4304 Pebble Creek Ct., Saginaw Michigan, U.S.A.**

SO ORDERED.<sup>20</sup> (Emphasis supplied)

On September 19, 2013, the RTC issued the Summons by Publication, viz.:

#### SUMMONS BY PUBLICATION

Pursuant to the Order of the Court dated September 18, 2013, Summons by Publication was made on the ground that defendant **MARIVIC SOLIS LAYNES** is now residing at 4304 Pebble Creek Ct., Saginaw Michigan, U.S.A.

Defendant **MARIVIC SOLIS LAYNES** is hereby summoned and required to file with the Office of the Clerk of Court, Regional Trial Court, Branch 82, Odiongan, Romblon within sixty (60) days from the date of the last publication of this summons, her answer to the complaint and to serve copy of the same on the plaintiff (sic). Failure to do so, judgment by default will be taken against her and may be granted the relief demanded in the complaint.

The Summons by Publication shall be published in the newspaper of general circulation nationwide once a week for three (3) consecutive weeks.<sup>21</sup>

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<sup>16</sup> Id. at 31.

<sup>17</sup> Id. at 67-68.

<sup>18</sup> Id. at 69.

<sup>19</sup> Id. at 31.

<sup>20</sup> Id. at 69.

<sup>21</sup> Id. at 217.

In compliance with the RTC Order, Salvador submitted an Affidavit of Publication<sup>22</sup> issued by Esperanza D. Castro of the *People's Balita*, stating that Salvador had caused the publication of the summons in said newspaper once a week for three consecutive weeks, or on October 18 and 25 and November 1, 2013.<sup>23</sup>

Salvador, however, failed to send a copy of the summons to Marivic's United States of America (USA) address as indicated in the September 18, 2013 RTC Order.<sup>24</sup> Apparently, Salvador sent a copy of the summons to Marivic's last known address in the Philippines.<sup>25</sup>

Expectedly, Marivic failed to file her answer within the 60-day period given by the RTC, prompting Salvador to move that Marivic be declared in default.<sup>26</sup>

In an Order dated April 22, 2014, the RTC declared Marivic in default and allowed Salvador to present evidence *ex-parte*.<sup>27</sup>

### The RTC Decision

On February 16, 2015, the RTC rendered a Decision,<sup>28</sup> the dispositive portion of which reads:

**WHEREFORE**, in view of the foregoing premises, judgment is hereby rendered, viz:

1. Free Patent Blg. IV-045907-11-7191 and Original Certificate of Title No. P-27877 is declared null and void. Consequently, the Registry of Deeds of Romblon, Romblon is ordered to cancel OCT No. P-27877 in the name of Marivic Solis-Laynes;
2. Ordering the Provincial Assessor of Romblon, Romblon to cancel tax declaration No. 00357 in the names [of] Juana, Eric, Albert, Joseph and Marivic, all surnamed Solis.
3. Ordering the defendant Marivic Solis-Laynes to pay Atty. Salvador M. Solis the amount of P161,421.72 as actual damages.

**SO ORDERED.**<sup>29</sup>

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<sup>22</sup> Id. at 73-74.  
<sup>23</sup> Id. at 32.  
<sup>24</sup> Id.  
<sup>25</sup> Id. at 18.  
<sup>26</sup> Id. at 70-72.  
<sup>27</sup> Id. at 76.  
<sup>28</sup> Id. at 39-41.  
<sup>29</sup> Id. at 41.

On March 30, 2015, Marivic filed a Motion for New Trial<sup>30</sup> on the ground of fraud and for violation of her constitutional right to due process. She alleged, in gist, that her uncle, Salvador, fraudulently indicated Poblacion, San Agustin, Romblon as her address in the complaint when the latter is aware long before the filing thereof that Marivic and her family have been residing in the USA for more than 20 years. Marivic further averred that she has sufficient proof to establish her ownership over the subject fishpond.<sup>31</sup>

On October 8, 2015, the RTC denied Marivic's motion.<sup>32</sup> Marivic moved for reconsideration,<sup>33</sup> but to no avail.<sup>34</sup>

### The CA Decision

Marivic elevated the case before the CA, which reversed the RTC Decision and ruled:

**WHEREFORE**, the Decision, dated 16 February 2015, of the Regional Trial Court, Branch 82, Odiongan, Romblon in Civil Case OD-943 for Quieting of Title or Reconveyance of Property and/or For Declaration of Nullity of Tax Declaration, Free Patent and Original Certificate of Title, nullifying Free Patent Blg. IV-045907-11-7191 and OCT No. P-27877 in the name of defendant Marivic Solis-Laynes; ordering the Register of Deeds of Romblon City to cancel OCT No. P-27877 in the name of defendant Marivic Solis-Laynes; ordering the Provincial Assessor of Romblon, Romblon City (sic) to cancel Tax Declaration No. 00357 in the names of Juana, Eric, Albert, Joseph and Marivic, all surnamed Solis; and ordering Marivic Solis-Laynes to pay Atty. Salvador M. Solis the amount of P161,421.72 by way of actual damages, is **REVERSED** and **SET ASIDE**, and the complaint is **DISMISSED**.

**SO ORDERED.**<sup>35</sup>

The CA held that there was no valid service of summons on Marivic.<sup>36</sup> The complaint filed by Salvador was an action *quasi in rem* because it was essentially for the purpose of affecting Marivic's interest over the fishpond. Since Marivic is a nonresident who is not found in the Philippines, service of summons should have been done in accordance with Section 15, Rule 14 of the 1997 Rules of Civil Procedure. Such service, to be effective outside the Philippines, must be made either (1) by personal service; (2) by publication in a newspaper of general circulation in such places and for such time as the

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<sup>30</sup> Id. at 80-89.

<sup>31</sup> Id.

<sup>32</sup> Id. at 105-107.

<sup>33</sup> Id. at 108-114.

<sup>34</sup> Id. at 115-116

<sup>35</sup> Id. at 36.

<sup>36</sup> Id. at 33.

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court may order, in which case a copy of the summons and order of the court should be sent by registered mail to the last known address of the defendant; or (3) in any manner which the court may deem sufficient.<sup>37</sup>

According to the CA, the RTC Order dated September 18, 2013 and the Summons by Publication dated September 14, 2013 clearly indicate that service of summons on Marivic was through the second mode provided in Section 15 of Rule 14. Unfortunately, Salvador only complied with the publication requirement but failed to send or mail a copy of the summons to Marivic's last known address in the USA.<sup>38</sup> Ratiocinating that such failure on the part of Salvador is a fatal defect in the service of summons on Marivic,<sup>39</sup> the CA set aside the RTC Decision and dismissed the complaint.<sup>40</sup>

This time, petitioners moved for reconsideration<sup>41</sup> but was denied by the CA through the challenged Resolution.<sup>42</sup>

### The Petition Before the Court

Petitioners are now before the Court *via* the present Rule 45 petition, ascribing the following errors to the CA:

#### I.

**The [CA] committed grave error when it reversed and set aside the decision of the [RTC] in Civil Case OD-943 and dismissed the complaint on the ground that [petitioners] failed to strictly comply with the requirements of service of summons by publication because no copy of the summons was sent to the last known address of [Marivic] in the [USA] despite the undisputed fact that [Marivic] voluntarily appeared and actively participated in the proceedings before the [RTC].**

#### II.

**The [CA] committed grave error when it reversed and set aside the decision of the [RTC] notwithstanding that it manifestly overlooked certain relevant and undisputed facts that if properly considered, would have justified a different conclusion, and when it primarily supported its decision on**

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<sup>37</sup> Id. at 34.

<sup>38</sup> Id. at 35.

<sup>39</sup> Id.

<sup>40</sup> Id. at 36.

<sup>41</sup> Id. at 160-168.

<sup>42</sup> Id. at 38.

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**jurisprudence which already long been abandoned, replaced or modified by the [Supreme Court] to the effect that voluntary appearance by a party in court cures any defect committed in the service of summons.**

### III.

**The [CA] committed grave abuse of discretion in deciding the appealed case when it unjustifiably failed to act on the motion of the [petitioners] to admit their belatedly filed Appellees' Brief and when it disregarded considering (*sic*) the merits of the case but rather heavily relied on the trivial technicality of defect in the service of summons as principal basis for its decision.<sup>43</sup>**

#### *Petitioners' arguments*

Petitioners contend that while they complied with the publication of the summons and the complaint, they, nonetheless, erroneously mailed a copy of the summons and the complaint to Marivic's last known address in the Philippines and not to her last known address in the USA. At any rate, assuming that there was a defect in the extraterritorial service of summons on Marivic, still, such defect was cured when Marivic invoked the jurisdiction of the RTC, voluntarily appeared therein, and sought affirmative reliefs through her filing of a Motion for New Trial and motion for reconsideration of the RTC's order denying new trial. Thus, Marivic is deemed to have waived her right to question the RTC's alleged lack of jurisdiction over her person. Marivic's voluntary appearance before the RTC was equivalent to service of summons. Further, petitioners impute grave abuse of discretion to the CA in deciding Marivic's appeal contrary to prevailing jurisprudence and without considering petitioners' belatedly filed appellees' brief. As a result, the CA overlooked crucial facts and arrived at the erroneous conclusion that the defective service of summons upon Marivic is fatal to petitioners' complaint. Petitioners ultimately pray that the CA Decision be set aside and the RTC Decision dated February 16, 2015, be affirmed.<sup>44</sup>

#### *Respondent Marivic's arguments*

Marivic insists that Salvador had not been honest before the RTC. He is aware that Marivic no longer resides in the Philippines, as he frequently visits the latter's house in Michigan, USA Yet, Salvador falsely indicated in the complaint the address of Marivic's mother in San Agustin, Romblon, as Marivic's address, where he admittedly served the summons and a copy of the

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<sup>43</sup> Id. at 17-18.

<sup>44</sup> Id. at 18-25.

complaint. Marivic further asserts that she did not actively participate in the proceedings in the RTC. She posits that her filing of a Motion for New Trial did not cure the defect in the service of summons because her voluntary appearance before the RTC was precisely to question the jurisdiction of said court on ground of fraud and improper service of summons. It is Marivic's stance that the CA did not err in ruling that the defective service of summons was fatal to Salvador's complaint.<sup>45</sup> Neither did the CA commit a reversible error when it rendered the challenged Decision *sans* petitioners' appellees' brief, for such brief was filed by petitioners after the CA has already promulgated its Decision.<sup>46</sup>

### **The Court's Ruling**

#### **The petition is partly meritorious.**

Prefatorily, on the alleged failure of the CA to act on petitioners' Manifestation with Motion to Admit Appellee's (sic) Brief,<sup>47</sup> records disclose that said pleading with the attached Appellees' Brief was filed by petitioners only on September 14, 2017,<sup>48</sup> after the CA had rendered the challenged Decision on July 20, 2017. The Court also notes that petitioners filed their motion for reconsideration of the CA Decision on August 14, 2017,<sup>49</sup> yet for unknown reasons, they failed to include in said motion the (belated) admission of their Appellees' Brief. Again, it was only on September 14, 2017 that petitioners moved for leave of court to have their Appellees' Brief admitted by the CA. Thus, no fault can be attributed to the CA when it resolved the appeal *sans* the appellees' brief.

The Court further notes that although Marivic interposed an appeal from the February 26, 2015 Decision of the RTC,<sup>50</sup> nonetheless, the errors raised in the Appellant's Brief essentially pertained to the RTC's denial of her Motion for New Trial and the validity of the extraterritorial service of summons upon her.<sup>51</sup>

Procedurally speaking, Marivic should have included in her assigned errors the very ruling of the RTC ordering the cancellation of the Free Patent, Original Certificate of Title, Tax Declaration of the disputed fishpond. Still, her failure to do so was not fatal to her cause because it is her firm stance that the RTC Decision is absolutely void and without legal effect on account of the

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<sup>45</sup> Id. at 229-233.

<sup>46</sup> Id. at 229.

<sup>47</sup> Id. at 179-182.

<sup>48</sup> Id. at 179.

<sup>49</sup> Id. at 160-178.

<sup>50</sup> Id. at 124 and 132.

<sup>51</sup> Id. at 123-124.

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defective extraterritorial service of summons and violation of her right to due process. Stated differently, Marivic controverted the RTC's judgment by default, not on the ground that it is unsubstantiated by evidence or that it is contrary to law, but on the ground that it is intrinsically void for having been rendered pursuant to a patently invalid order of default.<sup>52</sup> It is settled that a party who was improvidently declared in default has the option to either perfect an appeal or interpose a petition for *certiorari* (under Rule 65 of the Rules of Court) seeking to nullify the order of default even before the promulgation of a default judgment, or in the event that the latter has been rendered, to have both court decrees – the order of default and the default judgment – declared void.<sup>53</sup>

Clearly, the CA committed no reversible error in rendering the assailed Decision based on the issues raised by Marivic in her Appellant's Brief. Suffice it to state that such Decision was reached by the CA not only on the basis of Marivic's arguments, but after an examination of the records of the case *vis-à-vis* the assigned errors in the appeal.

The Court shall now delve on the merits of the present petition.

*The extraterritorial service of summons on Marivic was defective.*

The service of summons is a vital and indispensable ingredient of due process and compliance with the rules regarding the service of the summons is as much an issue of due process as it is of jurisdiction.<sup>54</sup> Indeed, proper service of summons is important because it serves to acquire jurisdiction over the person of the defendant or respondent, **or to notify said person of the action filed against them and to afford an opportunity to be heard on the claims made against them.**<sup>55</sup>

Corollarily, regardless of the type of action – whether it is *in personam*, *in rem* or *quasi in rem* – the preferred mode of service of summons is personal service.<sup>56</sup> Actions *in personam* and actions *in rem* or *quasi in rem* differ in that actions *in personam* are directed against specific persons and seek personal judgments. On the other hand, actions *in rem* or *quasi in rem* are directed against the thing or property or status of a person and seek judgments with respect thereto as against the whole world.<sup>57</sup>

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<sup>52</sup> See *Indiana Aerospace University v. Commission on Higher Education*, 408 Phil. 483, 497 (2001).

<sup>53</sup> *National Power Corporation v. Baysic*, G.R. No. 213893, September 25, 2019, 921 SCRA 1, 7.

<sup>54</sup> *Arrieta v. Arrieta*, G.R. No. 234808, November 19, 2018, 886 SCRA 140, 149.

<sup>55</sup> *Sarol v. Spouses Diao*, G.R. No. 244129, December 9, 2020.

<sup>56</sup> *De Pedro v. Romasan Development Corporation*, 748 Phil. 706, 712 (2014).

<sup>57</sup> *Romualdez-Licaros v. Licaros*, 449 Phil. 824, 834 (2003).

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As a rule, when the defendant does not reside and is not found in the Philippines, Philippine courts cannot try any case against such him/her because of the impossibility of acquiring jurisdiction over his/her person unless such defendant voluntarily appears in court. But when the case is one of actions *in rem* or *quasi in rem* enumerated in Section 15,<sup>58</sup> Rule 14 of the Rules of Court, Philippine courts have jurisdiction to hear and decide the case. In such actions, Philippine courts have jurisdiction over the *res*, and jurisdiction over the person of the non-resident defendant is not essential,<sup>59</sup> **although summons must still be served upon the defendant in order to satisfy the due process requirements.**<sup>60</sup> In such instance, extraterritorial service of summons can be made upon the defendant.<sup>61</sup>

Section 15, Rule 14 of the 1997 Rules of Civil Procedure provides:

**Section 15. Extraterritorial service.** — **When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer. (Emphasis supplied)**

Breaking down said provision, there are only four instances wherein a defendant who is a non-resident and is not found in the country may be served with summons by extraterritorial service: (1) when the action affects the

<sup>58</sup> Now Section 17, Rule 14 of the 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. No. 19-10-20-SC), which reads:

Section 17. *Extraterritorial service.* — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under [S]ection [5]; or as provided for in international conventions to which the Philippines is a party; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer.

<sup>59</sup> *Romualdez-Licaros v. Licaros*, supra note 57, at 833-834.

<sup>60</sup> *San Pedro v. Ong*, 590 Phil. 781, 794-795 (2008).

<sup>61</sup> *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation*, 556 Phil. 822, 838 (2007).

personal status of the plaintiff; (2) **when the action relates to, or the subject of which is property, within the Philippines, in which the defendant claims a lien or an interest, actual or contingent;** (3) **when the relief demanded in such action consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines;** and (4) when the defendant non-resident's property has been attached within the Philippines.<sup>62</sup>

In the above instances, extraterritorial service of summons may be effected under *any* of three modes: (1) by personal service out of the country, with leave of court; (2) **by publication and sending a copy of the summons and order of the court by registered mail to the defendant's last known address, also with leave of court;** or (3) by any other means the judge may consider sufficient.<sup>63</sup>

Significantly, suits to quiet title, as well as actions for annulment of certificate of title, are characterized as proceedings *quasi in rem*.<sup>64</sup> They are not actions against a person on the basis of his/her personal liability, but actions that subject the defendant's interest over a property to a burden;<sup>65</sup> or actions brought against a person seeking to subject the property of such person to the discharge of the claims assailed.<sup>66</sup>

In this case, extraterritorial service of summons on Marivic was proper as she is a non-resident who is not found in the Philippines, and petitioners' complaint is in the nature of an action *quasi in rem*, which relates to Marivic's interest in the subject fishpond. Nonetheless, the CA found that the extraterritorial service of summons on Marivic was invalid because Salvador merely complied with the publication requirement but failed to send copies of the complaint and the summons to Marivic's last known address in the USA. In this regard, the CA opined that the RTC intended that extraterritorial service of summons on Marivic be made *via* the second mode under Section 15, Rule 14 of the 1997 Rules of Civil Procedure.

The Court agrees.

Concededly, the RTC's Order allowing extraterritorial service of summons on Marivic was confusing, for while the RTC directed that "summons by publication be served to defendant MARIVIC SOLIS LAYNES at her last known address at 4304 Pebble Creek Ct., Saginaw

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<sup>62</sup> *Id.*; *Romualdez-Licaros v. Licaros*, supra note 57.

<sup>63</sup> *Romualdez-Licaros v. Licaros*, id.

<sup>64</sup> See *De Pedro v. Romasan Development Corporation*, supra note 56; *San Pedro v. Ong*, supra note 60.

<sup>65</sup> *De Pedro v. Romasan Development Corporation*, id.

<sup>66</sup> *San Pedro v. Ong*, supra note 60.

**Michigan, U.S.A.,**<sup>67</sup> the RTC also ordered that the Summons by Publication **be published in a newspaper of general circulation nationwide once a week for three (3) consecutive weeks.**<sup>68</sup>

Even so, the fact that Salvador – apart from complying with the publication requirement – also sent a copy of the summons and the complaint to Marivic’s last known address (albeit in the Philippines, and not in the U.S.A.) is telling that extraterritorial service of summons in this case was indeed to be effected under the second mode stated in Section 15, Rule 14 of the 1997 Rules of Civil Procedure. This conclusion is bolstered by no less than Salvador’s own Motion for Leave **to Serve Summons by Publication;**<sup>69</sup> and the RTC’s Order dated April 22, 2014, where the court *a quo* noted Salvador’s compliance with extraterritorial service by publication and declared Marivic in default in view of her failure to file answer despite having been furnished with copies of the summons and the complaint.<sup>70</sup>

Following the tenor of Section 15 of Rule 14 and the September 18, 2013 Order of the RTC, publication must be duly observed **and** copies of the summons and the complaint be served at Marivic’s **last known correct address** by registered mail, **as a complement to the publication.**<sup>71</sup>

On this point, Salvador argues that he substantially complied with the requisites of service by publication. He posits that although his act of sending copies of the summons and the complaint to Marivic’s last known address in San Agustin, Romblon was indeed erroneous, the same, however, was done in good faith.<sup>72</sup>

The Court is not persuaded.

Notably, it was Salvador himself who manifested before the RTC that Marivic is no longer in the Philippines. Not only that, he even provided the said court with Marivic’s current residence address in the USA.<sup>73</sup> These clearly belie his claim of good faith. He cannot feign ignorance of the requirement that mailing of copies of the summons and the complaint must be to Marivic’s last known correct address,<sup>74</sup> more so in light of the RTC’s directive that summons by publication be served at Marivic’s specified US address.

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<sup>67</sup> *Rollo*, p. 69.

<sup>68</sup> *Id.* at 217.

<sup>69</sup> *Id.* at 67-68.

<sup>70</sup> *Id.* at 76.

<sup>71</sup> *Sarol v. Spouses Diao, et al.*, supra note 55.

<sup>72</sup> *Rollo*, pp. 18-19.

<sup>73</sup> *Id.* at 44.

<sup>74</sup> *Sarol v. Spouses Diao, et al.*, supra note 55.

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From the foregoing, the CA correctly ruled that Salvador's failure to strictly comply with the requirements of the rules regarding the mailing of copies of the summons and the order for its publication is a fatal defect in the service of summons on Marivic.<sup>75</sup>

*The defective service of summons was cured by Marivic's filing of a Motion for New Trial.*

As already stated, service of summons is vital and indispensable to a defendant's right to due process. A violation of this due process is a jurisdictional defect which renders null and void all subsequent proceedings and issuances in relation to the case.<sup>76</sup>

Nevertheless, despite lack of valid service of summons, the court can still acquire jurisdiction over the person of the defendant by virtue of the latter's voluntary appearance. According to the Rules of Court, the defendant's voluntary appearance in the action shall be equivalent to service of summons. However, 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.<sup>77</sup>

Thus, as a general rule, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. It has been held that the filing of motions 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 is considered voluntary submission to the trial court's jurisdiction.<sup>78</sup>

In this regard, the Court sustains petitioners' stance that the defective service of summons on Marivic was cured by her filing of a Motion for New Trial before the RTC.

First, in said Motion, Marivic not only questioned the RTC's jurisdiction over her person, she also sought the reversal of the RTC's February 16, 2015 Decision and prayed that she be allowed to present evidence to prove her ownership over the subject fishpond.<sup>79</sup>

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<sup>75</sup> Id.

<sup>76</sup> Id.

<sup>77</sup> *United Planters Bank v. Spouses Sy*, 850 Phil. 639, 650 (2019).

<sup>78</sup> Id.

<sup>79</sup> *Rollo*, pp. 80-89.

Second, a perusal of the Notice of Appearance/Manifestation/Motion<sup>80</sup> filed by Marivic through counsel also reveals that Marivic intended to file a responsive pleading in the RTC and defend her interest in the disputed property.<sup>81</sup>

Indubitably, Marivic has submitted herself to the jurisdiction of the RTC and such voluntary submission cured the defect in the service of summons.<sup>82</sup>

*The RTC should have granted Marivic's Motion for New Trial and allowed her to participate in the proceedings therein.*

To stress, extraterritorial service of summons in an action *quasi in rem* is not for the purpose of vesting the court with jurisdiction, but for complying with the requirements of fair play or due process, **so that the defendant will be informed of the pendency of the action against him/her and the possibility that property in the Philippines belonging to or in which the defendant has an interest may be subjected to a judgment in favor of the plaintiff, and the defendant can thereby take steps to protect his/her interest if he/she is so minded.**<sup>83</sup>

To be sure, petitioners' complaint against Marivic threatens her interest in the subject fishpond. Marivic, as the registered owner of the fishpond, is entitled to due process with respect to that interest. Indeed, the court does not have competence or authority to proceed with an action for annulment of certificate of title without giving the person, in whose name the certificate was issued all the opportunities to be heard.<sup>84</sup>

Parenthetically, due process consists of the twin requirements of notice and hearing. Notice means that the persons with interests in the litigation be informed of the facts and law on which the action is based for them to adequately defend their respective interests. Hearing, on the other hand, means that the parties be given an opportunity to be heard or a chance to defend their respective interests.<sup>85</sup>

Here, while the defect in the service of summons was cured by Marivic's voluntary submission to the RTC's jurisdiction, this was not

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<sup>80</sup> Id. at 77-79.

<sup>81</sup> Id.

<sup>82</sup> *Belo v. Marcantonio*, G.R. 243366, September 8, 2020, 951 SCRA 179.

<sup>83</sup> *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation*, supra note 61.

<sup>84</sup> *De Pedro v. Romasan Development Corporation*, supra note 56.

<sup>85</sup> *Belo v. Marcantonio*, supra.

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sufficient to make the proceedings binding upon her without her participation. This is because Marivic's voluntary submission merely pertains to the "notice" aspect of due process. Equally important in the concept of due process is the "hearing" aspect or the right to be heard. This aspect of due process was not satisfied or "cured" by Marivic's voluntary submission to the jurisdiction of the RTC when she was unjustifiably disallowed to participate in the proceedings therein.<sup>86</sup>

It is settled that a defendant, who discovered the default order after judgment has been rendered but before the same has become final and executory, may file a motion for new trial under Section 1(a)<sup>87</sup> of Rule 37 of the Rules of Court,<sup>88</sup> which was what Marivic precisely did in the instant case. It is through her Motion for New Trial that she averred the improper service of summons upon her due to the extrinsic fraud perpetrated by Salvador. It is, thus, only at this point when Marivic was deemed, for purposes of due process, to have been notified of the action involving her and her property. It is also only at this point when she was deemed to have submitted herself to the jurisdiction of the RTC.<sup>89</sup> Despite her meritorious grounds, however, the RTC denied Marivic's Motion for New Trial and sustained the order of default against her.

On this score, it has been held that fraud as a ground for new trial refers to a fraud committed to the unsuccessful party by the opponent preventing the former from fully exhibiting his/her case by keeping him/her away from court, a false promise of a compromise; or **where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff;** or when an attorney fraudulently or without authority connives at his defeat.<sup>90</sup>

Evidently, Marivic did not know of the case against her because Salvador indicated an incorrect address in the complaint, which address he also utilized in the defective extraterritorial service of summons. In this light, it cannot be gainsaid that while Marivic had been notified of the case before the RTC (as a result of her voluntary appearance), she was nonetheless deprived of the opportunity to be heard due to the RTC's insistence on the validity of the default order,<sup>91</sup> which paved the way for Salvador's presentation of evidence *ex-parte*.

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<sup>86</sup> Id.

<sup>87</sup> **Section 1.** *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights x x x.

<sup>88</sup> *Belo v. Marcantonio*, supra note 82, citing *Lina v. Court of Appeals*, 220 Phil. 311 (1985).

<sup>89</sup> Id.

<sup>90</sup> *Datu v. Datu*, G.R. No. 209278, September 15, 2021.

<sup>91</sup> *Belo v. Marcantonio*, supra note 82.

From the foregoing, the CA did not err when it nullified the February 16, 2015 Decision of the RTC.

Nevertheless, the CA committed a reversible error when it dismissed petitioners' complaint altogether.

To the mind of the Court, the more prudent course of action is to remand the case to the RTC for trial anew and allow Marivic to present her evidence, in the interest of substantial justice, and considering Marivic's voluntary submission to the trial court's jurisdiction and her plea to participate in the proceedings before the RTC despite the violation of her right to due process.<sup>92</sup> After all, court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proof is the best way to ferret out such truth. By remanding the case to the RTC for a full-blown trial, both parties will be able to present their evidence, thus, affording them the opportunity to enforce and protect their respective rights.<sup>93</sup> This, in effect, would also prevent multiplicity of suits and expedite the resolution of the issue of ownership over the contested fishpond. More importantly, this would be more in accord with the constitutionally enshrined guarantee that no person shall be deprived of life, liberty, or property without due process of law.<sup>94</sup>

**WHEREFORE**, premises considered, the Petition for Review on *Certiorari* is **PARTLY GRANTED**. The assailed Decision dated July 20, 2017 and Resolution dated October 23, 2017 of the Court of Appeals in CA-G.R. CV No. 107226 are **AFFIRMED with MODIFICATION** in that the Complaint docketed as Civil Case No. OD-943 before the Regional Trial Court, Branch 82 of Odiongan, Romblon is hereby **REINSTATED**. Said court is **DIRECTED** to allow Marivic Solis-Laynes to file a responsive pleading in accordance with the Rules of Court and to participate in the trial of the case; and thereafter, for said trial court to resolve the case with utmost dispatch.

Accordingly, the case is **REMANDED** to the trial court for further proceedings.

**SO ORDERED.**

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<sup>92</sup> Id.

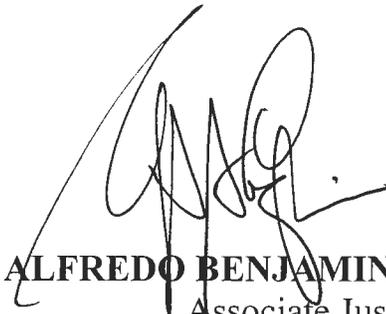
<sup>93</sup> See *Acance v. Court of Appeals*, 493 Phil. 676, 689 (2005).

<sup>94</sup> *Belo v. Marcantonio*, supra note 82; see also Section 1, Article III of the 1987 PHILIPPINE CONSTITUTION.



**SAMUEL H. GAERLAN**  
Associate Justice

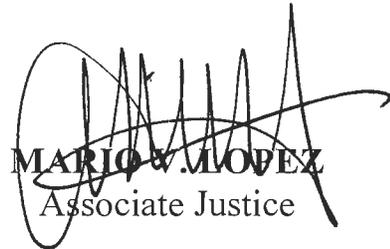
WE CONCUR:



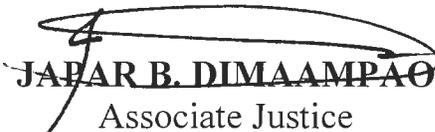
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**HENRIJEAN PAUL B. INTING**  
Associate Justice



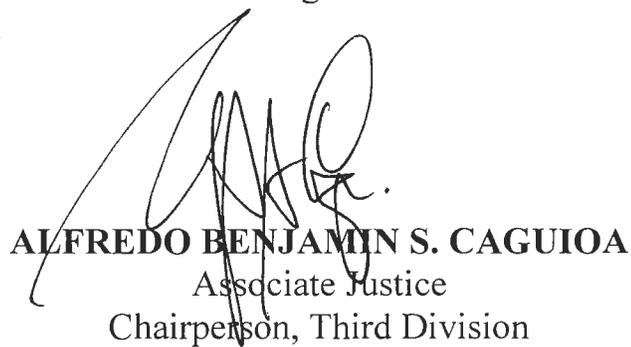
**MARIO W. LOPEZ**  
Associate Justice



**JAPAR B. DIMAAMPAO**  
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.



**ALFREDO BENJAMIN S. CAGUIOA**  
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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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