

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**G & G TRADING CORPORATION,
*Petitioner,***

-versus-

**G.R. No. 78299
February 29, 1988**

**HON. COURT OF APPEALS, Fifth
Division; Hon. Salvador J. Baylen,
Presiding Judge of Branch CIII,
Regional Trial Court, NCJR;
LANCASTER COMMERCIAL &
TRADING CORPORATION,
*Respondents.***

X-----X

D E C I S I O N

GANCAYCO, J.:

This is a Petition for Review on Certiorari seeking the reversal of the Decision of the Court of Appeals in Case No. C.A.-G.R. No. SP-09344 entitled, "G & G Trading Corporation vs. The Honorable Salvador J. Baylen and Lancaster Commercial Trading Corporation"^[*] dismissing the petition of the herein petitioner corporation.

The factual background of this case may be stated as follows:

On October 1, 1985, private respondent Lancaster Commercial & Trading Corporation filed in Civil Case No. Q-46105 an action for the recovery of a sum of money with a prayer for the issuance of a writ of preliminary attachment against the herein petitioner G & G Trading Corporation. Summons was served on a certain Melinda Molo. On November 18, 1985, respondent Judge Baylen of Branch CIII (103) of the Regional Trial Court of Quezon City granted the issuance of a writ of preliminary attachment on the properties of petitioner corporation.

On December 12, 1985, the counsel of petitioner corporation filed a special appearance and “Urgent Motion to Lift Order of Attachment” on the ground that jurisdiction over said corporation has not been validly acquired inasmuch as summons and copy of the complaint were allegedly received by a mere clerical secretary of the corporation. (Annex C) Private respondent corporation filed an Opposition wherein it stated among others that, “in the event that the theory of the defendant prevails, the defect can be remedied with the issuance of an Alias Writ of Summons.”

However, in an Order dated May 22, 1986 (Annex “G), the lower court, through respondent Judge Baylen, denied the motion to lift the writ of attachment filed by the petitioner corporation.

After the denial of the lower court of its motion for reconsideration, petitioner corporation filed a petition with the Court of Appeals to declare the Order dated May 22, 1986 (Annex “G”) null and void with a prayer for the issuance of a restraining order to enjoin respondent Judge Baylen from further proceeding with Civil Case No. Q-46105.

The above-mentioned petition was dismissed by the Court of Appeals on September 29, 1986 for lack of merit.

Hence, this petition for review.

The only issue submitted for Our resolution in this petition is whether or not summons was properly served on petitioner G & G Trading

Corporation so as to confer jurisdiction on the Regional Trial Court of Quezon City over this corporation.

The law applicable to this case is Section 13 of Rule 14 of the Revised Rules of Court, which provides:

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

In the case of *Delta Motor Sales Corporation vs. Mancosing*,^[1] as cited in *ATM Trucking Incorporated vs. Buencamino*,^[2] the reason for the rule on service of summons to a defendant corporation was explained thus:

“The purpose of the rule is to render it reasonably certain that the corporation will receive prompt and proper notice in an action against it or to insure that the summons be served on a representative so integrated with the corporation that such person will know what to do with the legal papers served on him or, in other words, to bring home to the corporation notice of the filing of the action.”

In the case at bar, the lower court concluded that there was valid service of summons on petitioner corporation as Melinda C. Molo, who received the summons, was the secretary of the corporation. The basis of such finding was the lower court’s belief that Melinda identified herself as the secretary of the corporation when she wrote after her signature the word “secretary” in the return made by the process server.^[3] However, this is denied by the petitioner which insists on the other hand that Melinda is merely its clerical secretary and not the official secretary of the corporation. To this effect, evidence was presented by petitioner.^[4]

The lower court went further when it said that at the very least, she can be considered as an ‘agent’ of the corporation.” The Court of Appeals, in affirming the decision of the Lower Court, cited the case of *Villa-Rey Transit vs. Far East Motor Corporation*,^[5] which held that

the Assistant General Manager for Operations of Villa-Rey Transit is embraced within the terms “manager” or “agent” as used in Section 13, Rule 14 of the Revised Rules of Court.

What the records show is that the petitioner had actually received the summons and complaint when it was served on Miss Molo.^[6] The Court of Appeals thus correctly maintained that the summons served at the office of petitioner is a substantial compliance with the rule on the service of summons.^[7]

Although it maybe true that the service of summons was made on a person not authorized to receive the same in behalf of the petitioner, nevertheless since it appears that the summons and complaint were in fact received by the corporation through its said clerk,^[8] the Court finds that there was substantial compliance with the rule on service of summons. Indeed the purpose of said rule as above stated to assure service of summons on the corporation had thereby been attained. The need for speedy justice must prevail over a technicality.

WHEREFORE, the petition is denied and petitioner corporation is hereby directed to file an answer to the complaint within fifteen (15) days from receipt of a copy of this decision and the trial court is directed to terminate the proceedings in the case with deliberate dispatch. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration shall be entertained. No costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz and Griño-Aquino, JJ., concur.

[*] Penned by Mr. Justice George R. Coquia, and concurred in by Messrs. Justices Bienvenido C. Ejercito and Antonio M. Martinez.

[1] 70 SCRA 598 (1976).

[2] 124 SCRA 434 (1983).

[3] Pages 40-41, Rollo.

[4] Page 43, Rollo.

[5] 81 SCRA 298 (1978).

[6] Page 41, Rollo.

[7] Page 64, Rollo, Decision of the Court of Appeals dated September 29, 1986.
[8] Page 41, Rollo.

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