Republic of the Philippines
Supreme Court
Manila

**THIRD DIVISION**

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| **SPOUSES ELOISA CLARITO ABAYON AND ROMMIL REGENIO ABAYON**<br>Petitioners, | **G.R. No. 249684** |
| | Present: |
| | CAGUIOA, *J.*, *Chairperson*,<br>INTING,<br>GAERLAN,<br>DIMAAMPAO,<br>SINGH, *JJ.* |
| - versus - | |
| **BANK OF THE PHILIPPINE ISLANDS,**<br>Respondent. | Promulgated:<br>March 29, 2023<br>MisrDCBatt |

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

**DIMAAMPAO, *J.:***

The Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court challenges the Decision[2] and Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 155382, which declared that the Regional Trial Court (RTC) of Makati City properly acquired jurisdiction over the persons of Spouses Eloisa Clarito Abayon (Eloisa) and Rommil Regenio Abayon (petitioners), and which denied their motion for reconsideration,[4] respectively.

The case originated from a complaint[5] for sum of money filed by the Bank of the Philippine Islands (respondent) against petitioners before the Metropolitan Trial Court (MeTC) of Makati City, Branch 67. Respondent

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1 *Rollo*, pp. 11-64.
2 Id. at. 65-75. The Decision dated April 29, 2019 was penned by Associate Justice Ricardo R. Rosario (now a Member of this Court), with the concurrence of Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño.
3 Id. at. 76. Dated September 13, 2019.
4 Id. at 302-330.
5 Id. at 77-81.

averred that it issued a credit card in favor of petitioners. Through the use of the said card, petitioners incurred an outstanding principal obligation of ₱285,260.56 as of October 6, 2014. Given that its several demands to pay such outstanding balance remained unheeded, respondent instituted the sum of money claim.[6]

After evaluating the allegations of the complaint, the Branch 21 of the MeTC acting for Branch 67, issued an Order[7] dismissing the complaint for lack of jurisdiction.[8] The MeTC declared that the amounts prayed for in the complaint exceeded the jurisdictional threshold of the first level court given that respondent failed to include the finance and late payment charges amounting to ₱121,850.97 in determining the principal amount.[9]

Respondent filed its notice of appeal[10] and elevated the case to the RTC of Makati City, docketed as Civil Case No. 15-659 and raffled off to Branch 142 thereat. Subsequently, the trial court ordered respondent to file its memorandum within 15 days from receipt of its order, while directing petitioners to file their own within 15 days from their receipt of respondent's memorandum. Thereafter, the case would be submitted for decision.[11]

In its Order dated April 15, 2016,[12] the RTC affirmed the MeTC's dismissal of the complaint for lack of jurisdiction but held that it would take cognizance thereof pursuant to Section 8, Rule 40 of the Rules of Court as it had jurisdiction over the claimed amount.[13] It also directed respondent to pay the required fees.[14]

Aggrieved, petitioners filed a Motion for Reconsideration *Ad Cautelam.*[15] Therein, petitioners averred that the Order dated April 15, 2016 was premature and that they were deprived of their right to due process. They argued that they received respondent's memorandum on April 7, 2016, hence, they had until April 22, 2016 to file their memorandum but before they could do so, the assailed Order had already been rendered. Moreover, petitioners contended that the MeTC's lack of jurisdiction over the case could not vest the RTC with appellate jurisdiction. Petitioners also emphasized that they were seeking reconsideration without voluntarily submitting to the

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6 Id. at 78-79.
7 Id. at 90-93. The Order dated April 27, 2015 was signed by Presiding Judge Ana Teresa T. Cornejo-Tomacruz.
8 Id. at 93.
9 Id. at 92-93.
10 Id. at 94-95.
11 Id. at 97. The Order dated March 14, 2016 was signed by Presiding Judge Dina Pestaño Teves.
12 Id. at 109-112. The Order dated April 15, 2016 was signed by Presiding Judge Dina Pestaño Teves.
13 Id. at 112.
14 Id.
15 Id. at 113-120.

jurisdiction of the RTC.[16]

In the Order[17] dated September 9, 2016, the RTC denied petitioners' motion and reiterated that it had jurisdiction over the case. It noted that even if it were to take the arguments of petitioners into account, there would be no cogent reason to disturb its prior ruling.[18]

Subsequently in its Order[19] dated September 20, 2016, the RTC dismissed the case without prejudice for respondent's failure to pay the required fees as provided in its Order dated April 15, 2016.

Respondent then filed a Motion for Reconsideration[20] dated October 26, 2016 praying that the dismissal be reversed in the interest of substantial justice.[21]

Resultantly, the RTC issued the Order[22] dated March 9, 2017, reversing its earlier Order and directing respondent to comply with the payment of all required fees lest the case be dismissed with prejudice pursuant to Section 3, Rule 17 of the Rules of Court.[23]

Petitioners filed their Motion for Reconsideration[24] dated March 20, 2017, challenging the immediately foregoing Order for again violating their right to due process. Petitioners posited that the RTC erred in issuing the same despite initially setting respondent's Motion for Reconsideration dated October 26, 2016 for hearing on April 10, 2017. Petitioners argued that such a motion was litigious in nature and that they should have been afforded an opportunity to be heard and to oppose respondent's motion. Consequently, petitioners prayed that the March 9, 2017 Order be vacated for depriving them of their day in court.[25]

Finding merit in petitioners' motion and for respondent's failure to attend the scheduled hearing, the RTC vacated the March 9, 2017 Order and directed petitioners to file their comment or opposition to respondent's Motion for Reconsideration dated October 26, 2016 within three days therefrom, after which the matter would be submitted for the trial court's resolution.[26]

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16 Id. at 118.
17 Id. at 121. The Order dated September 9, 2016 was signed by Presiding Judge Dina Pestaño Teves.
18 Id. at 121.
19 Id. at 122. The Order dated September 20, 2016 was penned by Presiding Judge Dina Pestaño Teves.
20 Id. at 123-125.
21 Id. at 124.
22 Id. at 127. The Order dated March 9, 2017 was penned by Acting Presiding Judge Phoeve C. Meer.
23 Id. at 127.
24 Id. at 128-132.
25 Id. at 129-130.
26 Id. at 133. The Order dated March 31, 2017 was given in open court by Acting Presiding Judge Phoeve

Petitioners filed their Opposition[27] on April 17, 2017. Petitioners hammered on respondent's lackadaisical attitude in prosecuting its case as evidenced by its failure to make any attempts to pay the required fees. This amounted to inexcusable negligence which should result in the denial of respondent's motion for reconsideration.[28] Petitioner also added that the present proceedings should be suspended as a matter of judicial courtesy owing to their pending petition for *certiorari* before the CA, docketed as CA-G.R. No. 148337. The said petition questions the Orders dated April 15, 2016 and September 9, 2016 rendered by the Regional Trial Court, docketed as C.A.-G.R. SP. No. 148337.[29]

In its Order[30] dated May 9, 2017, the RTC still resolved to grant respondent's motion for reconsideration dated October 26, 2016 in the interest of substantial justice. The trial court highlighted that procedural technicalities should never defeat substantive rights. The RTC then issued summons to petitioners.[31]

Petitioners moved for reconsideration on June 6, 2017.[32] Before the RTC could act on this motion, summons was served to petitioners on June 23, 2017.[33]

Petitioners filed a Motion to Dismiss (*via* Special Appearance) on July 7, 2017.[34] They contended that the service of summons was premature, as their motion for reconsideration on the May 9, 2017 Order was still pending. Additionally, petitioners averred that the service of summons was also defective as it was not served personally to petitioners as required by the Rules of Court.[35]

In the Order[36] dated August 4, 2017, the RTC denied the motion to dismiss and directed petitioners to file their answer to respondent's complaint.[37] The RTC noted that the Officer's Return dated June 27, 2017 reflects that the summons was received by a certain Apollo Mangaya (Mangaya), who was the mailing receiver of Globe Tower, Bonifacio Global City, Taguig, per the instruction of petitioner Eloisa herself to the building

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C. Meer.

27 Id. at 134-140.

28 Id. at 135-139.

29 *Rollo,* p. 139. Note: In the Resolution dated August 15, 2017 in C.A.-G.R. SP. No. 148337, the CA dismissed the petition for lack of merit. The foregoing Resolution was upheld by the Supreme Court in its own Resolution dated July 24, 2019 in G.R. No. 236581.

30 Id. at 141. The Order dated May 9, 2017 was penned by Acting Presiding Judge Phoeve C. Meer.

31 Id.

32 Id. at 144-154.

33 Id. at 68.

34 Id. at 157-172.

35 Id. at 167-170.

36 Id. at 183-184. The Order dated August 4, 2017 was penned by Acting Presiding Judge Phoeve C. Meer.

37 Id.

receptionist. In light of the foregoing, petitioners could not now claim that they were improperly served with the summons.[38]

Undeterred, petitioners again moved for reconsideration[39] and stressed that their motion for reconsideration filed on June 6, 2017 remained unresolved. Notwithstanding the purported contents of the Officer's Return, petitioners maintained that serious attempts to personally serve the summons was necessary before substituted service may be availed of.[40]

Still, petitioners were rebuffed by the RTC in its Order[41] dated February 1, 2018.

Petitioners then filed a petition for *certiorari*[42] before the CA, arguing that the Orders dated August 4, 2017 and February 1, 2018 were attended with grave abuse of discretion amounting to lack or excess of jurisdiction.

In the impugned Decision,[43] the CA dismissed the petition for lack of merit. As to petitioners' assignment of error with regard to their unacted upon motion for reconsideration filed on June 6, 2017, the appellate court held that an unacted upon motion within due time was deemed denied. The motion was also impliedly denied by the RTC when it rendered its August 4, 2017 Order that upheld the service of summons to petitioners. Moreover, the CA observed that the special civil action for *certiorari* generally may not lie against a denial of a motion to dismiss because the movant would still have an adequate remedy before the trial court – that is, to file an answer and subsequently appeal the case. As to the purported improper service of summons, the CA agreed that the process server's efforts to personally serve the same upon petitioners was indeed lacking. However, the CA noted that petitioners never denied that it was upon their instruction that the service of summons was received by Mangaya. Finally, the CA declared that the peculiar circumstances of the case belie petitioners' argument that the trial court failed to acquire jurisdiction over them. It stressed that petitioners, on more than one occasion, sought affirmative relief from the RTC, which amounted to a voluntary submission to the trial court's jurisdiction.[44]

Petitioners sought reconsideration,[45] but were denied in the oppugned

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38 Id. at 183.
39 Id. at 185-196.
40 Id. at 186-194.
41 Id. at 203. The Order dated February 1, 2018 was penned by Acting Presiding Judge Phoeve C. Meer.
42 Id. at 204-244.
43 Id. at. 65-75. The Decision dated April 29, 2019 was penned by Associate Justice Ricardo R. Rosario (now a Member of this Court), with the concurrence of Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño.
44 Id. at 70-74.
45 Id. at 302-330.

Resolution.[46] Hence, they instituted the present Petition,[47] ascribing error to the CA in upholding the challenged orders of the RTC. As an aside, the petition likewise seeks the issuance of a writ of preliminary injunction and/or temporary restraining order to enjoin the RTC from continuing the proceedings in Civil Case No. 15-659 pending resolution of this matter.[48]

## Issues

The primary issues tendered for this Court's resolution are whether the CA erred in: (*1*) upholding the Orders dated August 4, 2017 and February 1, 2018 of the RTC; and (*2*) concluding that the RTC acquired jurisdiction over petitioners.

## The Ruling of the Court

The Petition is partly meritorious.

At the outset, the Court clarifies that its review of the impugned Decision and Resolution of the CA is limited to determining and correcting any error of judgment committed in the exercise of its jurisdiction;[49] specifically, the Court will evaluate the case in the prism of whether the CA correctly determined the presence or absence of grave abuse of discretion on the part of the RTC.[50]

Considered in this light, the CA appears to have committed reversible error in arriving at its conclusion.

***The Orders dated August 4, 2017 and February 1, 2018 of the Regional Trial Court violated petitioners' right to due process.***

To recall, petitioners asserted in their petition for *certiorari* that the RTC committed grave abuse of discretion when it served summons, and then subsequently issued its Order dated August 4, 2017, which denied petitioners' motion to dismiss, even before it acted upon petitioners' motion for reconsideration on the Order dated May 9, 2017. Petitioners decried these violations to their right to due process, especially since they were precisely asking the RTC to reconsider its resumption of jurisdiction over respondent's complaint, notwithstanding the latter's failure to heed the trial court's earlier

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46 Id. at 76. Dated September 13, 2019.
47 *Rollo*, pp. 11-64.
48 Id. at 55-56.
49 See *Denila v. Republic*, G.R. No. 206077, July 15, 2020.
50 Id.

directive to pay the necessary filing fees.[51]

In addressing the same, the CA held that the unresolved motion for reconsideration was "impliedly denied" by the RTC through its August 4, 2017 Order, reasoning that in issuing the foregoing, the trial court had occasion to "go over the record of the case and review the series of events that led to the issuance and service of the summons upon [petitioners]."[52] The appellate court cited the case of *Orosa v. Court of Appeals,*[53] *(Orosa)* where the Court held that "a motion that is not acted upon in due time is deemed denied."[54]

The CA' s reliance on *Orosa* was misplaced.

A perusal of the Court's disquisition in *Orosa* would readily reveal that it was not on all fours with the factual circumstances of the present case, as what was under consideration there was a mere motion for additional time to file answer. Even in subsequent reiterations of this doctrine, the Court has never held that a trial court may ignore, much less dispense with, the resolution of a motion for reconsideration to its orders.

In *Sps. Salise v. Salcedo,*[55] the doctrine was also applied with respect to a motion for extension of time to file compliance.

Interestingly, in *Eversley Childs Sanitarium v. Sps. Barbarona,*[56] the Court reiterated this doctrine but with respect to a motion to withdraw filed by the Solicitor General of its motion for reconsideration of the CA's adverse decision. Without acting on the motion to withdraw, the CA ruled on the motion for reconsideration, which the Court held was an effective denial of the motion to withdraw.[57] Despite this finding, the Court nevertheless treated the CA's Resolution on the motion for reconsideration as without legal effect, given that it was issued in violation of the CA's own Internal Rules which provide that a subsequent motion for reconsideration would be deemed abandoned if the movant filed a petition for review or motion for extension of time to file a petition for review before this Court.[58] In arriving at this conclusion, the Court's foremost concern was to ensure that petitioner would not be deprived of its day in court because of mere technicalities, more so when the fault rested with the CA in not applying its own rules in treating the motion for reconsideration as abandoned.[59]

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51 *Rollo*, pp. 205-206.
52 Id. at 70.
53 330 Phil. 67 (1996).
54 Id. at 72.
55 787 Phil. 586, 596 (2016).
56 829 Phil. 111 (2018).
57 Id. at 27.
58 Id. at 128.
59 Id.

Indeed, an earnest reading of the foregoing cases would show that the CA erred in applying the doctrine in *Orosa.* A motion for reconsideration is not in the nature of a motion for additional time to file a pleading.

A motion for extension of time to file a pleading partakes the nature of an accommodation grounded on a sufficient reason and is always left to the sound discretion of the court.[60]

On the other hand, a motion for reconsideration is filed "to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence,"[61] thus affording the court ample opportunity to rectify the same. By arbitrarily ignoring such a motion and continuing the proceedings, the trial court would be impairing the movant-party's right to be heard, which is a basic tenet of the fundamental right to due process. This finds special significance in this case since the Order that petitioners sought to reconsider was precisely on the RTC's resumption of jurisdiction over the case which it had already previously dismissed.

Undoubtedly, the spirit of liberality behind the Court's pronouncement in *Eversley Childs Sanitarium* should find application to the case at hand in order to prevent petitioner from losing its day in court due to the RTC's own actions of disregarding its standing motion for reconsideration.

Indeed, no less than the Constitution itself provides that **"[a]ll** cases or **matters filed** after the effectivity of this Constitution **must be decided or resolved within** twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and **three months for all other lower courts.**"[62]

This mandate directs judges to judicially dispose of the court's business, by resolving motions and incidents pending before them without delay, and by deciding cases within the required period.[63] This directive is also embodied in Supreme Court Administrative Circular No. 1-88 which states that "[a]ll Presiding Judges must endeavor to **act to promptly on all motions and interlocutory matters pending before their courts.**"[64]

Well-settled is the rule that grave abuse of discretion arises when a lower court or tribunal patently violates the Constitution, the law or existing jurisprudence,[65] as in this case. By failing to timely act on the motion for

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60 See *Fluor Daniel, Inc.-Philippines v. Fil-Estate Properties, Inc.*, G.R. No. 212895, November 27, 2019.

61 See *Valencia (Bukidnon) Farmers Cooperative Marketing Association, Inc. v. Heirs of Cabotaje*, 851 Phil. 95, 104 (2019).

62 Article VIII, Section 15(1), 1987 Constitution.

63 See *Esturas v. Lu,* A.M. No. RTJ-11-2281, September 16, 2019.

64 Supreme Court Administrative Circular No. 1-88, issued on January 28, 1988.

65 *Valencia (Bukidnon) Farmers Cooperative Marketing Association, Inc. v. Heirs of Cabotaje*, supra note 62, at 103..

reconsideration, the subsequent assailed Orders of the RTC were rendered in violation of petitioners' right to due process, contrary to the position of the CA. Consequently, these must be annulled and set aside.

Nevertheless, the Court clarifies that the nullification of the Orders dated August 4, 2017 and February 1, 2018 of the RTC would not result in the dismissal of the case. These two orders dealt only with the resolution of petitioners' Motion to Dismiss dated July 5, 2017. Even disregarding the same, the *status quo* would be determined by the trial court's Order dated May 9, 2017, which affirmed its jurisdiction over the subject matter of respondent's complaint.

Surely, by the trial court's own subsequent actions, it would not be difficult to guess how it would rule on petitioners' motion for reconsideration, and any further inquiry into the propriety of its determination would not only be beyond the scope of the Court's review but would be an exercise in futility. In the end, it is preferred that litigation be decided on the merits and not on technicality to afford both party-litigants the ample opportunity to ventilate their rights.[66]

***The Regional Trial Court has acquired jurisdiction over the petitioners.***

As to the second issue on whether the CA correctly upheld the RTC's determination that it had acquired jurisdiction over petitioners through the purportedly improper service of summons, the Court rules in the affirmative.

As correctly observed by the CA, the process server's attempts to personally serve the summons to petitioners was wanting.[67] As the preferred mode of service, the return must indicate the steps taken by the sheriff to comply with the same, before substituted service may be availed of.[68] Failure to properly serve summons would mean that the court did not acquire jurisdiction over the person of the defendant.[69]

However, the peculiar circumstances in this case warrant a relaxation of this rule. As the CA shrewdly noted, petitioners never denied that the summons was received by Mangaya **per instruction of petitioner Eloisa Clarito Abayon herself** to the building receptionist.[70] Certainly, there is nothing in the Motion to Dismiss dated July 5, 2017,[71] nor in its petition before

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66 See *People's General Insurance Corp. v. Guansing*, 843 Phil. 197, 215-216 (2018).
67 *Rollo*, p. 73.
68 *People's General Insurance Corp. v. Guansing*, supra note 67 at 199.
69 Id.
70 *Rollo*, p. 73. Emphasis supplied.
71 Id. at 169-170.

the Court,[72] that would show that petitioners denied ever giving such an instruction. While this fact would not operate to do away with the express requirement under the Rules of Court on personal service, it should operate to estop petitioners from raising such an argument to divest the RTC of jurisdiction over their persons given that estoppel operates to render an admission conclusive upon the person making the same.[73]

In any event, even assuming that the summons were invalid, the RTC would have still acquired jurisdiction over petitioners by their voluntary submission.

"Generally, defendants voluntarily submit to the court's jurisdiction when they participate in the proceedings despite improper service of summons."[74] Indeed, by filing pleadings where there are no unequivocal objections to the jurisdiction over the person of the defendant, the defendant may be said to have voluntarily submitted to the court's jurisdiction, which is equivalent to a valid service of summons.[75]

Notably, while petitioners' Motion for Reconsideration to the Order dated April 15, 2016 was filed *ad cautelam,* its Motion for Reconsideration to the Order dated March 9, 2017, which sought to vacate the foregoing Order and to set respondent's motion for hearing, was filed without reservations and was, in fact, granted by the trial court. Its Opposition to the Motion for Reconsideration dated October 26, 2016, and its Motion for Reconsideration to the Order dated May 9, 2017, lacked similar reservations. It was only in its Motion to Dismiss dated July 5, 2017 that petitioners again made a reservation that the pleading was filed via special appearance.

Evidently, even if the Court were to void the summons served, petitioners have already actively participated and sought affirmative relief from the RTC. Their numerous pleadings have shown that notice has been effected and that they have been adequately notified of the proceedings to allow them to sufficiently defend their interests.[76]

Consequently, the RTC properly acquired jurisdiction over petitioners.

With that, there is no further need to pass upon the other arguments raised. In the same vein, petitioner's concurrent application for the issuance of a writ of preliminary injunction and/or temporary restraining order is necessarily denied.

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72 Id. at 51-54.
73 Article 1431, Civil Code of the Philippines.
74 *People's General Insurance Corp. v. Guansing*, supra note 67 at 210.
75 Id. at 212.
76 Id.

**THE FOREGOING DISQUISITIONS CONSIDERED,** the Petition for Review on *Certiorari* is hereby **PARTLY GRANTED**. The Decision dated April 29, 2019 and the Resolution dated September 13, 2019 of the Court of Appeals in CA-G.R. SP No. 155382 are **SET ASIDE** in accordance with this Decision. The application for the issuance of a writ of preliminary injunction and/or temporary restraining order is **DENIED**.

**SO ORDERED.**

**JAPAR B. DIMAAMPAO**
*Associate Justice*

**WE CONCUR:**

**ALFREDO BENJAMIN S. CAGUIOA**
*Associate Justice*

**HENRI JEAN PAUL B. INTING**
*Associate Justice*

**SAMUEL H. GAERLAN**
*Associate Justice*

**MARIA FILOMENA D. SINGH**
*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 this Court.

**ALEXANDER G. GESMUNDO**
*Chief Justice*