SERVICE OF SUMMONS ON PRIVATE DOMESTIC CORPORATIONS

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To confer jurisdiction upon the court over a private domestic corporation which is the defendant in a civil action, proper service of summons upon that corporation is essential. But what is a proper service of summons?

That is the question to which this brief note is addressed. More precisely perhaps, in the light of the most recent Supreme Court decisions, what is the present ruling on when is there proper service of summons upon a private domestic corporation?

The Rule

First, the law. Section 13 of Rule 14 of the Revised Rules of Court states:

> Section 13. *Service upon private domestic corporation or 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."

There are two obvious elements in the law: first, that the subject of summons is a private corporation or partnership, duly established under Philippine law or registered as the case may be; and second, that service must be made on any of the above-named persons. The unarticulated elements involve the questions of when and where may the summons be served. By way of inordinately driving home the point that uneasy questions of law may arise precisely on account of these two latter aspects of the quoted provision, one may ask, for instance, whether the service of summons would be valid if it were served on the president of the company while he was having lunch in an obscure restaurant with his mistress. The time (not to mention the timing, which would rather be indiscreet) and the place of service raise fine questions of validity. And that is where jurisprudence has come to the rescue, sifting through the texture of the law.

The Rulings, Then

In an earlier case, *Trinica Inc. v. Polaris Marketing Corp.* (60 SCRA 321) decided in 1974, the Supreme Court held that service of summons was improper and hence, the lower court's judgment must be aside when summons was served on the President of the corporation in open court while he, as a lawyer, was attending to another case. A much earlier case, decided in 1967, entitled *Clavecilla Radio System v. Antillon* (19

SCRA 379) held that summons served at one of the radio stations was improper as it was not the principal place of business of the corporation served.

Two terms in the wording of the law received further interpretation by the High Tribunal: these are "manager" and "secretary". In *Litton Mills, Inc. v. Werner Management Consultants, Inc.*, (61 O.G. 690), it was held that summons served on the Sales Manager was void because he could not be considered a "top official." Then in 1976, in the case of *Delta Motors Sales Corporation v. Mangosing* (70 SCRA 598), where summons was served on *Delta* through the secretary of the head of the personnel department, various orders of the trial court were set aside on the ground that the latter did not acquire jurisdiction because summons was not personally made on any of the officers designated in Section 13 of Rule 14. According to the decision penned by Justice Aquino: "A strict complaince with the mode of service is necessary to confer jurisdiction of the court over a corporation. x x x The purpose 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."

It will be noted that the thrust of rulings then on corporate service of summons was strict adherence to what the law explicitly states and apparently meant within such a rigorous context. Thus, summons was properly served when made personally on a high-level officer of the corporation whose position of responsibility enabled him to effectively convey to the corporation the portent of the summons given him; that such summons was served at the principal place of business, and therefore during official hours of business.

Mr. Justice Barredo, while concurring on the principal decision regarding the merits of the *Delta* case, *supra*, expressed disinclination with the strict ruling on the issue of the propriety of the service of summons. He said:

"I concur in the judgment setting aside the order of default as well as all subsequent proceedings even if I am not inclined to agree in the service of summons upon private domestic corporations x x x feel that even as to said officers, service may be validly made by substitution pursuant to Section 8 of the same rule x x x I cannot see why if an individual defendant can be served in such manner, the same method of service cannot be made to any of the officers of the corporation indicated in the rule, the essence and effect of the act to be done being practically identical, inasmuch as in the situation contemplated and for the legal purposes intended, said officer is virtually the embodiment of the corporation."

It may be argued as an aside, that the remedy of substituted service is premised on the impossibility or difficulty of personal service rather than point to the remedy as a cure or recourse to improper personal or

direct service, hence, one must still confront the question of what is proper or improper, depending on one's side of the argument, service of summons.

But to go back to Mr. Justice Barredo's statements, these seem to have been precursors to what is now the present ruling on the matter.

The Rulings, Now

The case of Villa Rey Transit, Inc. v. Far East Motor Corp. (81 SCRA 298) decided in 1978 had the effect of modifying and tempering the strict interpretation of the Supreme Court of the law. In the aforementioned decision, it was held that summons served on the assistant General Manager at a substation of the transit company was valid because it was made on a representative of the corporation whose position was effectively integrated in the corporate organization as to enable him to apprise the corporation of the nature of the legal documents served on him. Thus, the *Trimica* decision, *supra*, and the rest of the other cases up to the decision in *Delta*, were, in effect, changed.

Now comes a September 30, 1982 decision, *Filoil Marketing Corporation v. Marine Development Corp. of the Philippines*, penned by Mr. Justice Relova which reinforced the apparently new thrust of jurisprudence on the subject. In this case, summons and complaint were served on defendant corporation thru a housegirl of the General Manager. On the ground of improper service of summons, the corporation's counsel filed a motion to dismiss. But instead of dismissing the case, the lower court ordered new summons to be issued within an extension of 15 days. This time, summons was served on the Purchasing Chief of Stock of the corporation, which act prompted another motion to dismiss by the defendant corporation thru its counsel.

Subsequently, the court ordered summons to be served through the lawyers of the defendant-corporation to whose offices the counsel of the corporation belonged. Thereafter, the court rendered its decision against the defendant. The principal position of the latter in its appeal was that the lower court did not acquire jurisdiction due to improper service of summons. The Supreme Court was not persuaded and held that summons served upon the counsel was service made on the agent of the corporation because he was acting for and in behalf of the defendant with respect to the various motions to dismiss which the counsel filed. Thus, the service was valid and sufficient.

The Ruling In Effect

Thus, the present thrust of the rulings on corporate service of summons is a re-interpretation of the language of the law with due regard to the practical circumstances of the particular case, possibly to avoid con-