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**THIRD DIVISION**

[G.R. No. 78728. December 8, 1988.]

**ARTEMIO BALTAZAR and AURORA GALVEZ,** *petitioners, vs.* **THE HONORABLE COURT OF APPEALS and GOOD EARTH ENTERPRISES, INC.,** *respondents.*

**SYLLABUS**

**1. REMEDIAL LAW; CIVIL PROCEDURE; SUMMONS; REGULAR MODE OF SERVING SUMMONS UPON PRIVATE PHILIPPINE CORPORATION; NEED FOR STRICT COMPLIANCE WITH MODE OF SERVICE; RATIONALE THEREFOR.** — We note that the regular mode of serving summons upon a private domestic corporation — i.e., a private corporation organized under Philippine law and hence registered with the Securities and Exchange Commission — is governed by Section 13 of Rule 14 of the Revised Rules of Court, which provides as follows: "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.*" The regular mode, in other words, of serving summons upon a private Philippine corporation is by *personal service upon one of the officers of such corporation identified in Section 13.* Ordinarily, such personal service may be expected to be made at the principal office of the corporation. Section 13 does *not*, however, impose such requirement, and so personal service upon the corporation may be effected through service upon, for instance, the president of the corporation at his office or residential address. While Section 13 states that "service *may* be made on the president, *etc.*" of a domestic corporation, in *Delta Motor Sales Corporation v. Mangosing*, the Court stressed the need for strict compliance with the mode of service specified in Section 13 quoted above and explained why such strict compliance is necessary: "*For the purpose of receiving service of summons and being bound by it, a corporation is identified with its agent or officer who under the rule is designated to accept service of process.* 'The corporate power

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to receive and act on such service, so far as to make it known to the corporation, is thus vested in such officer or agent.' xxx *A [sic] strict compliance with the mode of service is necessary to confer jurisdiction of the court over a corporation. The officer upon whom service is made must be one who is named in the statute; otherwise the service is insufficient.* So, where the statute requires that in the case of a domestic corporation summons should be served on 'the president or head of the corporation, secretary, treasurer, cashier or managing agent thereof,' service of summons on the secretary's *wife* did not confer jurisdiction over the corporation in the foreclosure proceeding against it. Hence, the decree of foreclosure and deficiency judgment were void and should be vacated. *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.* In other words, 'to bring home to the corporation notice of the filing of the action.'

**2. ID.; ID.; ID.; SERVICE OF SUMMONS BY PUBLICATION; WHAT DETERMINES PROPRIETY THEREOF; SITUATIONS WHERE SERVICE OF SUMMONS BY PUBLICATION ALLOWED.—** The propriety of service of summons by publication is *not* dependent upon the technical characterization of the action being initiated as an action *in rem* or *quasi in rem*. The propriety of service by publication is dependent, rather, upon compliance with the requirements of the applicable provisions of the Rules of Court. We note secondly, that service of summons of publication may be allowed under Rule 14 of the Revised Rules of Court in three (3) different situations. The first is the situation of an "unknown defendant" addressed by Section 16 of Rule 14: "Sec. 16. *Service upon an unknown defendant.* — Whenever the *defendant is designated as an unknown owner*, or the like, or *whenever the address of a defendant is unknown and cannot be ascertained by diligent inquiry*, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order." The second refers to situations where "extraterritorial service" is proper. This kind of situation is governed by Section 17 of Rule 14: "Sec. 17. *Extraterritorial*

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*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 7; 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." The third situation is that of a resident of the Philippines who is temporarily out of the Philippines and who may be served with summons by publication under Section 18: "Sec. 18. *Residents temporarily out of the Philippines.* — When an action is commenced against *a defendant who ordinarily resides within the Philippines, but who is temporarily out of it*, service may, by leave of court, be effected out of the Philippines, as under the preceding section."

3. **ID.; ID.; ID.; ID.; RENDERED INVALID BY SERVER'S FAILURE TO SATISFY STANDARD OF "DILIGENT INQUIRY" ESTABLISHED BY SECTION 16 OF RULE 14; LEGAL EFFECTS THEREOF; CASE AT BAR.**— Even a cursory examination of Sections 16, 17 and 18 of Rule 14 above will at once reveal that, if at all, service of summons by publication upon Good Earth could only be done under Section 16. Section 17 can find application only where the defendant is both a non-resident and not actually found in the Philippines. Since Good Earth is a corporation organized under the Philippine law, it cannot be regarded as a non-resident corporation. Section 18, upon the other hand, appears to contemplate a defendant who is a natural person. In any case, petitioner did not pretend that Good Earth was at any time temporarily out of the Philippines, assuming such a condition were possible. Section 16 itself covers two (2) distinguishable situations: where the *identity* of the defendant is unknown;

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and where the *address* of the defendant is unknown. Under Section 16, therefore, petitioner must show that the address of Good Earth was "unknown" *and* that such address "[could] not be ascertained by diligent inquiry." In the case at bar, petitioner acted *as if* the address of Good Earth was "unknown." Petitioner claimed that Good Earth could not be found at 666 Muelle de Binondo, Manila, the address appearing in the Transfer Certificate of Title No. 191048 issued in the name of Good Earth. As aforestated, Deputy Sheriff Pre stated in his Return that he had tried to serve summons upon Good Earth at the mentioned address three (3) times, *i.e.*, on March 25, 27 and 30, 1977. This Return appears to suggest that the Sheriff *went* to 666 Muelle de Binondo, Manila, three (3) times. The correctness of this suggestion in the Sheriff's Return is open to serious doubt considering that, in the allegation of Good Earth not denied by petitioner, the Sheriff received the summons and copy of the complaint only *on 29 March 1977*. The sum total of what the Sheriff actually did, was to ask a security guard he found at 666 Muelle de Binondo and this security guard apparently pointed to the building directory where the name of Good Earth did not appear. It is argued by Good Earth that had the Sheriff inquired at any of the offices actually found in the building at 666 Muelle de Binondo, he would have found Good Earth which is a corporation owned or controlled by the Ching family, considering that all the corporations quartered at 666 Muelle de Binondo are Ching family corporations. Good Earth, in other words, did not dispute that 666 Muelle de Binondo, Manila was its correct corporate address. We do not believe, therefore, that the address of Good Earth could be regarded as "unknown" within the meaning of Section 16 of Rule 14. More importantly, we do not believe that the acts of Deputy Sheriff Pre satisfied the standard of "diligent inquiry" established by Section 16 of Rule 14. Deputy Sheriff Pre should have known what every law school student knows, that Good Earth being a domestic corporation must have been registered with the Securities and Exchange Commission and that the SEC records would, therefore, reveal not just the correct address of the corporate headquarters of Good Earth but also the addresses of its directors and other officers. We believe and so hold that a litigant or process server who has not gone through the records of the SEC cannot claim to have carried out the "diligent inquiry" required under Section 16 of Rule 14 of the

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Revised Rules of Court for valid service of summons by publication upon a domestic corporation. It remains to note the celerity with which petitioner Artemio Baltazar, Deputy Sheriff Pre and the Judge of the trial court acted in going through the motions of serving summons by publication upon Good Earth. Deputy Sheriff Pre, as noted earlier, received the summons for delivery on 29 March 1977. He attempted to serve the summons on 30 March 1977. Two (2) days later, on 1 April 1977, Deputy Sheriff Pre executed his Return of the summons. On the same day, petitioner Baltazar filed an *Ex-Parte* Motion for leave to serve summons by publication. On 4 April 1977, the trial court granted Baltazar's Motion and ordered summons by publication. This notable dispatch appears quite inconsistent with any claim that petitioner and Deputy Sheriff Pre had exercised reasonable diligence in trying to discover the address of Good Earth. It may be noted, finally, that the record does not show that Baltazar sent a copy of the summons and the order for publication to Good Earth by registered mail to its last known address which was 666 Muelle de Binondo, Manila, as required by Section 21 of Rule 14, Revised Rules of Court. We hold that the purported service of summons by publication upon Good Earth in Civil Case No. 5552-P was legally and constitutionally vitiated and hence invalid and ineffective to vest jurisdiction over the person of Good Earth upon the trial court, and that the judgment there rendered by that court was null and void. It vested no rights upon Baltazar and imposed no liabilities or burdens upon Good Earth. We agree with the respondent Court of Appeals that the trial court in Civil Case No. PQ-7410-P fell into profound error in not setting aside and annulling the judgment of the trial court in Civil Case No. 5552-P.

**4. CIVIL LAW; PROPERTY; PURCHASERS IN GOOD FAITH AND FOR VALUE; WHERE BURDEN OF PROVING THEIR STATUS LIES; ORDINARY PRESUMPTION OF GOOD FAITH NOT SUFFICIENT TO DISCHARGE BURDEN.** — We must observe, at the outset that Baltazar's vendees have not proved their status as purchasers in good faith and for value of the land which Baltazar had no right to sell. The burden of proving the status of a purchaser in good faith and for value lies upon him who asserts that status. In discharging that burden, it is not enough to invoke the ordinary presumption of good faith, *i.e.*, that everyone is presumed to act in good

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faith. The good faith that is here essential is integral with the very status which must be proved.

**5. ID.; LAND REGISTRATION; INDEFEASIBILITY OF TITLE UNDER TORRENS SYSTEM; NOT APPLICABLE WHERE PREVIOUS VALID TITLE TO SAME PARCEL OF LAND EXISTS; RATIONALE THEREFOR.—** "The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to the same parcel of land did not exist. *The respondent had a valid title to the parcel of land* issued to it on 10 January 1936 after purchasing the parcel of land at public auction sale. *It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested of their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system.* Veronica Bareza perpetrated the fraud by making false representations in her petition and the title issued to her being the product of fraud could not vest in her valid and legal title to the parcel of land in litigation. *As she had no title to the parcel of land, in the same way that a thief does not own or have title to the stolen goods, she could not transmit title which she did not have nor possess.* Moreover, the petitioner cannot claim not to be at fault in the purchase of the parcel of land from his co-defendant Veronica Bareza, to say it mildly, or he cannot be deemed to be a purchaser in good faith and for value, because as correctly found by the Court of Appeals he is not an innocent purchaser.

**6. ID.; ID.; ASSURANCE FUND; WHO MAY RECOVER THEREFROM; REQUISITES FOR RECOVERY; NOT LIABLE TO PURCHASER IN PURPORTED SALE OF LAND BY AN IMPOSTOR; REASON THEREFOR.—** "[R]ecovery from the Assurance Fund could be demanded by: x x x '2) Any person who has been *deprived of any land or*

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*any interest therein* under the following conditions: "a) that there was no negligence on his part; "b) that he was deprived as a consequence of the bringing of his land or interest therein under the provisions of the Property Registration Decree; or by the registration by any other persons as owner of such land; or by mistake, omission or misdescription in any certificate or owner's duplicate, or in any entry or memorandum in the register or other official book, or by any cancellation; and "c) that he is barred or in any way precluded from bringing an action for the recovery of such land or interest therein, or claim upon the same.'" A careful reading of the above provision will readily show that the private respondents do not come under either of the two situations above mentioned. x x x The petition correctly points out that *such sale conveyed no title or any interest at all to them for the simple reason that the supposed vendor had no title or interest to transfer. He was not the owner of the land. He had no right thereto he could convey.* Manifestly, the deception imposed upon them by the impostor deprived the private respondents of the *money* they delivered to him as consideration of the sale. But there is no question that *the subsequent cancellation of the sale did not deprive them of the land subject thereof, or of any interest therein, for they never acquired ownership over it in the first place.* The private respondents argue that from the time the new transfer certificate of title was issued in their name on January 28, 1965, until it was cancelled on October 12, 1967, they were the true and exclusive owners of the disputed property. Hence, the cancellation of their title on the latter date had the effect of depriving them of the said land and so entitles them now to proceed against the Assurance Fund. *The flaw in this posture is that the real Lawaan Lopez had her own genuine certificate of title all the time and it remained valid despite the issuance of the new certificate of title in the name of the private respondents. That new certificate*, as the trial court correctly declared, *was null and void ab initio*, which means that *it had no legal effect whatsoever and at any time. The private respondents were not for a single moment the owner of the property in question and so cannot claim to have been unlawfully deprived thereof* when their certificate of title was found and declared to be a total nullity.

**7. ID.; ID.; LAW PREFERS LAWFUL HOLDER OF REGISTERED TITLE OVER TRANSFEREE OF A VENDOR**

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**BEREFT OF TRANSMISSIBLE RIGHTS.**— We might assume for the moment and for purposes of argument only that Baltazar's vendees had successfully proven they were purchasers in good faith and for value. Even so, as between two persons both of whom are in good faith and both innocent of any negligence, the law must protect and prefer the lawful holder of registered title over the transferee of a vendor bereft of any transmissible rights. Under the foregoing principle derived from the above case law, Baltazar's vendees have no rights as against Good Earth. Their recourse is against Baltazar himself.

**APPEARANCES OF COUNSEL**

*Edgardo M. Salandanan* for petitioners.

*Jose S. Songco* for respondent Good Earth Enterprises, Inc.

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

**FELICIANO, *J.*:**

This Petition for Review on *Certiorari* was instituted by petitioners Artemio Baltazar and Aurora Galvez against Good Earth Enterprises, Inc. ("Good Earth") to annul the Court of Appeals' Decision in C.A. - G.R. CV No. 00104 dated 14 January 1987.

The facts borne out by the record are as follows:

The parcels of land involved in this case, one with an area of 873 square meters and the other with an area of 24,448 square meters, are both located in Barrio San Isidro, Parañaque. On 5 February 1959, they were adjudicated to one Lorenzo Molera pursuant to Decree No. M-70457 in Land Registration Case No. N-1957 by the Court of First Instance of Rizal acting as a cadastral court. On 8 April 1959, they were titled in the name of Lorenzo Molera, under Original Certificate of Title (OCT) No. 1866.

On 15 August 1965, the parcels of land were acquired by Good Earth from successors-in-interest of Lorenzo Molera. On

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19 May 1967, Transfer Certificate of Title (TCT) No. 191048 was issued in the name of Good Earth.

On 22 March 1977, Artemio Baltazar instituted Civil Case No. 5552-P against Good Earth for declaration of ownership and reconveyance of the parcels of land before the Court of First Instance of Rizal, Branch 28. Baltazar traced his claimed rights from an alleged vast Spanish land grant to one "Don Hermogenes Rodriguez, Governor General of Intramuros, Manila [sic]" down to a deed of sale over the subject lots allegedly executed by one Pedro Asedillo (for whose mother, Baltazar had been a tenant sharing in the rice harvest from the lots) on 6 March 1976.[1]

The Deputy Sheriff of the trial court, Mr. Ernesto Pre, received on 29 March 1977 a copy of the summons and complaint for service on Good Earth at its address set forth in the complaint — 666 Muelle de Binondo, Manila.[2] On 1 April 1977, Deputy Sheriff Pre certified in his Sheriff s Return that:

"x x x notwithstanding three attempts made by the undersigned Deputy Sheriff, particularly on March 25, 27 and 30, 1977, to serve the summons and copy of the complaint upon the defendant Good Earth Enterprises, Inc. at the given address, the same has failed as according to information defendant Corporation has never held office thereat and its present office address is unknown."[3]

On the same date, 1 April 1977, therein plaintiff Baltazar filed a motion for leave to serve the summons and a copy of the complaint upon therein defendant Good Earth by publication.

The trial court granted Baltazar's motion. Publication of the summons and the complaint in the "Times Journal," a newspaper of general circulation, for three (3) consecutive weeks was effected on 6, 13, and 20 August 1977.[4] Subsequently, the trial court,

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[1] Decision, dated 3 November 1977, Civil Case No. 5552-P; *Rollo*, p. 38.

[2] Annex "B" of Comment of Respondent dated 7 September 1987, *Rollo*, p. 127.

[3] Annex "E" of Comment of Respondent, *Rollo*, p. 126.

[4] Decision of the CFI dated 3 November 1977; *Rollo*, p. 36.

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on motion of Baltazar dated 24 October 1977 and upon finding that Good Earth had failed to file its answer within the sixty (60) day period counted from the day following the last day of the publication, declared Good Earth "as if in default" and allowed Baltazar to present his evidence *ex-parte*. Ten (10) days later, on 3 November 1977, the trial court issued the questioned judgment by default against Good Earth, the dispositive portion of which

1) declared Baltazar true and owner of the property covered by TCT No. 191048;

2) ordered Good Earth to reconvey that property to Baltazar and, should Good Earth fail so to reconvey;

3) decreed the cancellation of TCT No. 191048; and

4) required the Register of Deeds of Rizal to issue a new TCT in the name of Baltazar.[5]

Accordingly, on 28 February 1978, TCT No. 191048 in the name of Good Earth was cancelled and another one, TCT No. 63805, was issued in the name of Artemio Baltazar, all without the knowledge of Good Earth.

Baltazar lost no time at all in selling the land so titled in his name. The parcel with an area of 873 square meters was sold on 14 March 1978 to Aurora Galvez. The parcel of 24,448 square meters was first subdivided into Lots 1-B-1, 1-B-2, and 1-A and thereafter, lots 1-B-1 and 1-B-2 were sold to Rizaliana Garments, Inc. and lot 1-A to BGB Development Corporation. The successors-in-interest of Baltazar were issued the following titles: Aurora Galvez — TCT No. S-65627; Rizalina Garments, Inc. — TCT Nos. S-72087 and S-72088; and BGB Development Corporation — TCT Nos. S-72490 and S-72491.

On 9 August 1979, Good Earth instituted a complaint for annulment of the judgment in Civil Case No. 5552-P and for reconveyance, against Artemio Baltazar and his vendees Aurora Galvez and BGB Development Corporation, which complaint was docketed as Civil Case No. PQ-7410-P, in the Court of

[5] CFI Decision, pp. 5-6; *Rollo*, pp. 40-41.

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First Instance of Rizal, Branch 28, the same court which had issued the judgment by default against Good Earth. Good Earth later impleaded Baltazar's third vendee, Rizaliana Garments, Inc. as an additional defendant.

Good Earth assailed the judgment of 3 November 1977 as null and void, upon the ground that the trial court had not acquired jurisdiction over the person of Good Earth. It was urged by Good Earth that the suit commenced by Baltazar was an action *in personam* which required personal service of summons; hence, service of summons by publication was improper and unwarranted in this case. It was also urged by Good Earth that Land Registration Decree No. N-70457, by virtue of which OCT No. 1866 was issued to Lorenzo Molera, predecessor-in-interest of Good Earth, became incontrovertible one year after its registration on 5 February 1959.

The trial court in Civil Case No. PQ-7410-P rendered judgment against Good Earth and dismissed its complaint holding, among other things, that the trial court which issued the judgment by default had acquired jurisdiction over the person of defendant Good Earth through service of summons by publication; that the suit brought by Baltazar against Good Earth was an action *quasi in rem* such that service of summons by publication was appropriate; that Lorenzo Molera, the original registered owner of the subject lands, was not an indispensable party to the suit brought against Good Earth; that the action instituted by Good Earth was barred by *res judicata*; and that defendants Galvez, BGB Development Corporation and Rizaliana Garments, Inc. were purchasers in good faith and for value.

On appeal by Good Earth, the Court of Appeals, on 14 January 1987, reversed the trial court's decision and ordered the Registry of Deeds of Rizal to cancel the transfer certificates of title issued in the names of Baltazar, Galvez, Rizaliana Garments, Inc. and BGB Developments Corporation, reinstated Transfer Certificate of Title No. 191048 which had stood in the name of Good Earth and directed the defendants to reconvey the parcels of land in question to Good Earth free from all liens and encumbrances.

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Hence this Petition for Review instituted by Baltazar and Galvez. Approximately nine (9) months after the filing of this Petition, Rizaliana Garments, Inc. and BGB Development Corporation filed a motion for leave to intervene stating that they had filed with this Court a motion *ex abundante cautela* for a fifteen (15) day extension of time within which to file a petition for review. This Court, in a Resolution dated 23 March 1988, denied the movants leave to intervene because "no Petition for Review — [had] actually [been] filed before this Court by movants. Accordingly, the decision of the Court of Appeals dated 14 January 1987 [had] become final and executory a long time ago in respect of movants."[6]

Two (2) principal issues are raised in this case: the first relates to the propriety of the service of summons by publication upon respondent Good Earth in Civil Case No. 5552-P, and the second concerns the rights, if any, of the vendees of petitioner Baltazar under the circumstances of this case.

Confronting the first issue, we note that the regular mode of serving summons upon a private domestic corporation — *i.e.*, a private corporation organized under Philippine law and hence registered with the Securities and Exchange Commission — is governed by Section 13 of Rule 14 of the Revised Rules of Court, which provides as follows:

"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.*" (Italics supplied)

The regular mode, in other words, of serving summons upon a private Philippine corporation is by *personal service upon one of the officers of such corporation identified in Section 13.* Ordinarily, such personal service may be expected to be made at the principal office of the corporation. Section 13 does *not*, however, impose such requirement, and so personal service upon the corporation may be effected through service upon,

[6] *Rollo*, pp. 198-199.

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for instance, the president of the corporation at his office or residential address. While Section 13 states that "service *may* be made on the president, *etc.*" of a domestic corporation, in *Delta Motor Sales Corporation v. Mangosing*,[7] the Court stressed the need for strict compliance with the mode of service specified in Section 13 quoted above and explained why such strict compliance is necessary:

"*For the purpose of receiving service of summons and being bound by it, a corporation is identified with its agent or officer who under the rule is designated to accept service of process.* 'The corporate power to receive and act on such service, so far as to make it known to the corporation, is thus vested in such officer or agent.' (*Lafayette Insurance Co. v. French*, 15 L. Ed. 451, 453).

xxx xxx xxx

*A [sic] strict compliance with the mode of service is necessary to confer jurisdiction of the court over a corporation. The officer upon whom service is made must be one who is named in the statute; otherwise the service is insufficient.* So, where the statute requires that in the case of a domestic corporation summons should be served on 'the president or head of the corporation, secretary, treasurer, cashier or managing agent thereof,' service of summons on the secretary's *wife* did not confer jurisdiction over the corporation in the foreclosure proceeding against it. Hence, the decree of foreclosure and deficiency judgment were void and should be vacated. (*Reader v. District Court*, 94 Pacific 2nd 858).

*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.* In other words, 'to bring home to the corporation notice of the filing of the action.' (35A C.J.S. 288 citing *Jenkins v. Lykes Bros. S.S. Co.*, 48 F. Supp. 848; *MacCarthy v. Langston*, D.C. Fla., 23 F.R.D. 249)." (Italics supplied)

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[7] 70 SCRA 598 (1976); See also *ATM Trucking, Inc. v. Buencamino*, 124 SCRA 434 (1983).

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It is not disputed that Deputy Sheriff Pre did not comply and did not attempt to comply with the requirement of Section 13 of Rule 14.

Since personal service of summons was clearly not effected upon Good Earth, we come to the question of whether the substituted service by publication purported to have been effected by the trial court in Civil Case No. 5552-P was proper and effective to vest jurisdiction upon such court over the person of Good Earth.

The first point that must be made in this connection is that the propriety of service of summons by publication is *not* dependent upon the technical characterization of the action being initiated as an action *in rem* or *quasi in rem*. The propriety of service by publication is dependent, rather, upon compliance with the requirements of the applicable provisions of the Rules of Court. We note secondly, that service of summons by publication may be allowed under Rule 14 of the Revised Rules of Court in three (3) different situations. The first is the situation of an "unknown defendant" addressed by Section 16 of Rule 14:

"Sec. 16. *Service upon an unknown defendant.*— Whenever the *defendant is designated as an unknown owner*, or the like, or *whenever the address of a defendant is unknown and cannot be ascertained by diligent inquiry*, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order." (Italics supplied)

The second refers to situations where "extraterritorial service" is proper. This kind of situation is governed by Section 17 of Rule 14:

"Sec. 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

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effected out of the Philippines by personal service as under Section 7; 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." (Italics supplied)

The third situation is that of a resident of the Philippines who is temporarily out of the Philippines and who may be served with summons by publication under Section 18:

"Sec. 18. *Residents temporarily out of the Philippines.* — When an action is commenced against *a defendant who ordinarily resides within the Philippines, but who is temporarily out of it*, service may, by leave of court, be effected out of the Philippines, as under the preceding section." (Italics supplied)

Even a cursory examination of Sections 16, 17 and 18 of Rule 14 above will at once reveal that, if at all, service of summons by publication upon Good Earth could only be done under Section 16. Section 17 can find application only where the defendant is both a non-resident and not actually found in the Philippines. Since Good Earth is a corporation organized under the Philippine law, it cannot be regarded as a non-resident corporation. Section 18, upon the other hand, appears to contemplate a defendant who is a natural person. In any case, petitioner did not pretend that Good Earth was at any time temporarily out of the Philippines, assuming such a condition were possible.

Section 16 itself covers two (2) distinguishable situations: where the *identity* of the defendant is unknown; and where the *address* of the defendant is unknown. Under Section 16, therefore, petitioner must show that the address of Good Earth was "unknown" *and* that such address "[could] not be ascertained by diligent inquiry."

In the case at bar, petitioner acted *as if* the address of Good Earth was "unknown." Petitioner claimed that Good Earth could not be found at 666 Muelle de Binondo, Manila, the address

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appearing in the Transfer Certificate of Title No. 191048 issued in the name of Good Earth. As aforestated, Deputy Sheriff Pre stated in his Return that he had tried to serve summons upon Good Earth at the mentioned address three (3) times, *i.e.*, on March 25, 27 and 30, 1977. This Return appears to suggest that the Sheriff *went* to 666 Muelle de Binondo, Manila, three (3) times. The correctness of this suggestion in the Sheriff's Return is open to serious doubt considering that, in the allegation of Good Earth not denied by petitioner, the Sheriff received the summons and copy of the complaint only *on 29 March 1977*. The sum total of what the Sheriff actually did, was to ask a security guard he found at 666 Muelle de Binondo and this security guard apparently pointed to the building directory where the name of Good Earth did not appear. It is argued by Good Earth that had the Sheriff inquired at any of the offices actually found in the building at 666 Muelle de Binondo, he would have found Good Earth which is a corporation owned or controlled by the Ching family, considering that all the corporations quartered at 666 Muelle de Binondo are Ching family corporations. Good Earth, in other words, did not dispute that 666 Muelle de Binondo, Manila was its correct corporate address. We do not believe, therefore, that the address of Good Earth could be regarded as "unknown" within the meaning of Section 16 of Rule 14.

More importantly, we do not believe that the acts of Deputy Sheriff Pre satisfied the standard of "diligent inquiry" established by Section 16 of Rule 14. Deputy Sheriff Pre should have known what every law school student knows, that Good Earth being a domestic corporation must have been registered with the Securities and Exchange Commission and that the SEC records would, therefore, reveal not just the correct address of the corporate headquarters of Good Earth but also the addresses of its directors and other officers.[8] We believe and so hold that a litigant or

[8] Section 14 of the Corporation Code specifies that the Articles of Incorporation shall include, among other things, the *names*, nationalities and *residences of the initial directors* of the corporation. Section 26 of the same Code provides that within thirty (30) days after the election of the directors and officers of the corporation, the Corporate Secretary of the corporation

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process server who has not gone through the records of the SEC cannot claim to have carried out the "diligent inquiry" required under Section 16 of Rule 14 of the Revised Rules of Court for valid service of summons by publication upon a domestic corporation.

It remains to note the celerity with which petitioner Artemio Baltazar, Deputy Sheriff Pre and the Judge of the trial court acted in going through the motions of serving summons by publication upon Good Earth. Deputy Sheriff Pre, as noted earlier, received the summons for delivery on 29 March 1977. He attempted to serve the summons on 30 March 1977. Two (2) days later, on 1 April 1977, Deputy Sheriff Pre executed his Return of the summons. On the same day, petitioner Baltazar filed an *Ex-Parte* Motion for leave to serve summons by publication. On 4 April 1977, the trial court granted Baltazar's Motion and ordered summons by publication. This notable dispatch appears quite inconsistent with any claim that petitioner and Deputy Sheriff Pre had exercised reasonable diligence in trying to discover the address of Good Earth. It may be noted, finally, that the record does not show that Baltazar sent a copy

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involved shall submit to the SEC the *names*, nationalities and *residences of the directors and officers elected at such election.*

In March 1977, when petitioner Artemio Baltazar commenced Civil Case No. 5552-P there were in effect the "Rules requiring the filing of information sheet by domestic corporations" issued by the Securities and Exchange Commission. These rules were dated 1 March 1971 and continue in effect today (Securities and Exchange Commission, Rules and Regulations, 1986, p. 341), and provide in part as follows:

> "2. A General Information Sheet, together with a copy of the minutes of the meeting electing the directors or officers, duly certified to and sworn by the Secretary of the corporation, shall be filed with this Commission within thirty (30) days following the date of the annual stockholders' meeting. x x x
>
> The General Information Sheet shall state, among others, *the names of the elected directors and officers*, together with their *corresponding position titles*, the capital structure of the corporation, its line of business, *business address and telephone number*, if any, and *such other data as the Commission, in a form, may prescribe.*
>
> xxx xxx xxx (Italics supplied)

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of the summons and the order for publication to Good Earth by registered mail to its last known address which was 666 Muelle de Binondo, Manila, as required by Section 21 of Rule 14, Revised Rules of Court.

We hold that the purported service of summons by publication upon Good Earth in Civil Case No. 5552-P was legally and constitutionally vitiated and hence invalid and ineffective to vest jurisdiction over the person of Good Earth upon the trial court, and that the judgment there rendered by that court was null and void. It vested no rights upon Baltazar and imposed no liabilities or burdens upon Good Earth. We agree with the respondent Court of Appeals that the trial court in Civil Case No. PQ-7410-P fell into profound error in not setting aside and annulling the judgment of the trial court in Civil Case No. 5552-P.

We turn to the question of the rights, if any, of the vendees of petitioner Baltazar. Their rights as such are, of course, dependent upon the rights of their vendor Baltazar. Since Baltazar acquired no rights in respect of the land here involved, he had none to transmit to his vendees. The question then arises as to whether or not Baltazar's vendees, who according to Baltazar were purchasers in good faith, had acquired any rights independent of the acts of petitioner Baltazar.

We must observe, at the outset that Baltazar's vendees have not proved their status as purchasers in good faith and for value of the land which Baltazar had no right to sell. The burden of proving the status of a purchaser in good faith and for value lies upon him who asserts that status. In discharging that burden, it is not enough to invoke the ordinary presumption of good faith, *i.e.*, that everyone is presumed to act in good faith. The good faith that is here essential is integral with the very status which must be proved.

The Court must stress next that whatever rights Baltazar's vendees might have had cannot be superior to the rights of Good Earth, who was at all relevant times lawful registered owner of the subject parcels of land, and who had not been negligent in any manner and indeed had not performed any act which gave rise to or any occasion for any claim of right by

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third persons. Good Earth was, moreover, itself a purchaser in good faith from the successors-in-interest of the original title holder, Lorenzo Molera.

The case of *C.N. Hodges v. Dy Buncio & Co., Inc.*[9] relied upon by the respondent Court of Appeals is particularly instructive, the facts there being closely similar to the facts here. There, Veronica Bareza, a *former* owner of Lot No. 3329 of the cadastral survey of Iloilo who had already sold said lot, went to the Court of First Instance of Iloilo acting as cadastral court and there wove a long and false story about having sold and subsequently reacquired said piece of land, about a lost deed of sale and lost certificate of title, about the parcel of land being foreclosed and bought at public auction by respondent Dy Buncio & Co., Inc. without her knowledge. She asked for the cancellation of the TCT standing in the name of Dy Buncio & Co., Inc. and for issuance of a new transfer certificate of title in her name. The trial court, after publication of her petition in a newspaper of general circulation and after *ex-parte* proceedings, no oppositors having appeared, ordered cancellation of the certificate of title in the name of Dy Buncio & Co., Inc. and issuance of another transfer certificate of title instead in the name of Veronica Bareza. Upon issuance of a TCT in her name, Veronica promptly sold the land to Mr. Hodges who in turn obtained a certificate of title in his name. Four (4) years later, Dy Buncio & Co., Inc. became aware of what Veronica had done and commenced action against both Mr. Hodges and Veronica Bareza to set aside the certificates of title issued to Mr. Hodges and to revalidate, as it were, its own title. The trial court ordered the cancellation of the TCTs in the name of Mr. Hodges and of Veronica Bareza and declared the TCT in the name of Dy Buncio & Co., Inc. as valid, efficacious and subsisting. On appeal from a decision of the Court of Appeals affirming the judgment of the trial court, the Supreme Court, through Mr. Justice Sabino Padilla, said:

"The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to

[9] 6 SCRA 287 (1962).

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the same parcel of land did not exist. *The respondent had a valid title* (transfer certificate of title No. T-15148 later on changed to No. T-4768) *to the parcel of land* (Lot No. 3329) issued to it on 10 January 1936 after purchasing the parcel of land at public auction sale. *It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested of their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system.* Veronica Bareza perpetrated the fraud by making false representations in her petition and the title issued to her being the product of fraud could not vest in her valid and legal title to the parcel of land in litigation. *As she had no title to the parcel of land, in the same way that a thief does not own or have title to the stolen goods, she could not transmit title which she did not have nor possess.* Moreover, the petitioner cannot claim not to be at fault in the purchase of the parcel of land from his co-defendant Veronica Bareza, to say it mildly, or he cannot be deemed to be a purchaser in good faith and for value, because as correctly found by the Court of Appeals he is not an innocent purchaser:

xxx xxx xxx"[10]

(Italics supplied)

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[10] 6 SCRA 292-293. The Court refused to review the finding of the Court of Appeals which is worth quoting:

"x x x Appellant insists that he had exercised prudence in ascertaining the right of Veronica Bareza. True, appellant had exercised prudence before he bought the land from Bareza, but the evidence, would show that his prudence had yielded certain facts sufficient to put him upon his guard and to delve deeper into Bareza's acquisition. As aptly concluded by the lower court, 'Had he done so he could have avoided the situation in which he is in now.' Ruth Deocaris admitted that appellant sent her to see said appellant's lawyer about Bareza's offer. Appellant's lawyer advised Deocaris to examine Bareza's title in the office of the Register of Deeds of Iloilo. Deocaris was informed by Vicente G. Cabardo, after going over the records with Deocaris beside him, that the land in question 'was formerly the property of Dy Buncio &

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Much the same position was reached in the recent case of *Treasurer of the Philippines v. Court of Appeals*.[11] The private respondent spouses bought from a person identifying himself as Lawaan Lopez a parcel of land in Quezon City, which he claimed was his property, for ₱98,700.00. The purported vendor filed a petition with the Court of First Instance of Quezon City for issuance of a duplicate certificate of title, alleging that his certificate of title had been burned in his house in Divisoria. His petition was granted after hearing, without any opposition, and upon issuance of the new duplicate certificate of title, the purported vendor executed a deed of sale in favor of respondent spouses who paid the stipulated price in full and who thereupon obtained the corresponding TCT in their names after cancellation of the duplicate certificate in the name of Lawaan Lopez. Two (2) years later, the real Lawaan Lopez appeared and filed a petition in court to declare as null and void the transfer of her land to private respondents upon the ground that it had been made by an impostor. After trial, the questioned deed of sale and the duplicate certificate of title issued to the impostor as well as the TCT in the names of the respondents, were cancelled and annulled and the certificate of title of the true Lawaan Lopez was revalidated. Private respondents subsequently brought an action for damages against the impostor and the Treasurer of the Philippines as custodian of the Assurance Fund. The trial court and the Court of Appeals ruled in their favor and held the Assurance Fund subsidiarily liable for damages. This Court, on petition for review, set aside the decision of the Court of Appeals and held the Assurance Fund not liable because private respondents had acquired no rights to the land involved as a result of the purported sale to them by the impostor. Mr. Justice Cruz, speaking for the Court, said —

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Co., Inc.'; that Bareza had acquired the same 'by purchase before the war'; and that title was transferred in Bareza's name 'by Court's order' (Exhibit 1). Deocaris also admitted that she found out that the land is still declared in the name by (of) Dy Buncio & Co. (Exhibit D-2, for the year 1948),and that she imparted this information to appellant C.N. Hodges together with Cabardo's certificate (Exhibit 1). The lower court acted correctly in rejecting appellant's pretense of good faith."

[11] 153 SCRA 359 (1987).

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"[R]ecovery from the Assurance Fund could be demanded [under Section 101 of Act No. 496] by:

xxx xxx xxx

'2) Any person who has been *deprived of any land or any interest therein* under the following conditions:

"a) that there was no negligence on his part;

"b) that he was deprived as a consequence of the bringing of his land or interest therein under the provisions of the Property Registration Decree; or by the registration by any other persons as owner of such land; or by mistake, omission or misdescription in any certificate or owner's duplicate, or in any entry or memorandum in the register or other official book, or by any cancellation; and

"c) that he is barred or in any way precluded from bringing an action for the recovery of such land or interest therein, or claim upon the same.'"

A careful reading of the above provision will readily show that the private respondents do not come under either of the two situations above mentioned.

xxx xxx xxx

The petition correctly points out that *such sale conveyed no title or any interest at all to them for the simple reason that the supposed vendor had no title or interest to transfer. He was not the owner of the land. He had no right thereto he could convey*. Manifestly, the deception imposed upon them by the impostor deprived the private respondents of the *money* they delivered to him as consideration of the sale. But there is no question that *the subsequent cancellation of the sale did not deprive them of the land subject thereof, or of any interest therein, for they never acquired ownership over it in the first place.*

The private respondents argue that from the time the new transfer certificate of title was issued in their name on January 28, 1965, until it was cancelled on October 12, 1967, they were the true and exclusive owners of the disputed property. Hence, the cancellation of their title on the latter date had the effect of depriving them of

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the said land and so entitles them now to proceed against the Assurance Fund.

*The flaw in this posture is that the real Lawaan Lopez had her own genuine certificate of title all the time and it remained valid despite the issuance of the new certificate of title in the name of the private respondents. That new certificate,* as the trial court correctly declared, *was null and void ab initio,* which means that *it had no legal effect whatsoever and at any time. The private respondents were not for a single moment the owner of the property in question and so cannot claim to have been unlawfully deprived thereof* when their certificate of title was found and declared to be a total nullity.

xxx xxx xxx."[12]

(Italics supplied)

We might assume for the moment and for purposes of argument only that Baltazar's vendees had successfully proven they were purchasers in good faith and for value. Even so, as between two persons both of whom are in good faith and both innocent of any negligence, the law must protect and prefer the lawful holder of registered title over the transferee of a vendor bereft of any transmissible rights. Under the foregoing principle derived from the above case law, Baltazar's vendees have no rights as against Good Earth. Their recourse is against Baltazar himself.

**WHEREFORE,** the Petition for Review is *DENIED* and the Decision dated 14 January 1987 of the Court of Appeals in C.A.-G.R. CV No. 00104 is *AFFIRMED.* Costs against petitioners.

**SO ORDERED.**

*Fernan, C. J. (Chairman), Gutierrez, Jr., Bidin,* and *Cortes, JJ.,* concur.

[12] 153 SCRA at 363-365.