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SECOND DIVISION

[G.R. No. L-28174. July 31, 1974]

EDUVIGES BELTRAN ESPIRITU and **FLORINDA B. ESPIRITU,** *petitioners, vs.* **THE COURT OF APPEALS, PEDRO DEL ROSARIO,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; SERVICE OF SUMMONS; SUBSTITUTED SERVICE IN INSTANT CASE IS VALID.**— Where service of summons for both petitioners who are mother and daughter, respectively, was made upon petitioner Florinda B. Espiritu, the daughter, at their house at Tenejeros, Malabon, Rizal and that said petitioner paid no heed thereto because she thought the papers received by her from the Sheriff, for herself and for her mother, were not important, since they seemed to refer to another case between her and her mother, on the one hand, and respondent Del Rosario, on the other, which had already been settled with the approval of the Court, it is evident that no error has been committed by the appellate court in holding that there was valid substituted service upon petitioners under Section 8 of Rule 14 of the Rules of Court. There is reason to believe, in the absence of any showing to the contrary, that Florinda B. Espiritu was a person of suitable age and discretion on the occasion the summons were served on her at their residence. Under these circumstances, it is baseless for petitioners to pretend there has been a denial of due process to them.

2. **ID.; PARTIES; INDISPENSABLE PARTY; FAILURE TO IMPLEAD INDISPENSABLE PARTY RENDERS PROCEEDINGS VOID; CASE AT BAR.**— The Court of Appeals annulled, as did the trial court, a contract, not between the plaintiff and the defendants before them, but between said defendants and a third person, not a party to the action, the Golden Earth, Inc., vendee of the lands in question from petitioners. In the premises, it is beyond question that Golden Earth, Inc. is an indispensable party in this case and its absence renders ineffective all the proceedings subsequent to the filing of the complaint, including the judgment. (Sec. 7, Rule 3, Rules of Court; Dacudao *vs.* Dueñas, L-14355, May 20, 1960) What the trial court should

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have done upon perceiving that the vendee in the sale sought to be annulled was absent was to order that it be impleaded. Decision reversed.

APPEARANCES OF COUNSEL

Salonga, Ordoñez, Yap, Sicat & Associates for petitioners.

Miguel R. Cornejo and *Ignacio D. Sonoron* for private respondents.

D E C I S I O N

BARREDO, *J.*:

Petition for review of the decision of the Court of Appeals in CA G.R. No. 34253, an appeal by petitioners from the unfavorable judgment by default rendered by the Court of First Instance of Rizal in its Civil Case No. Q-7537, an action of respondent Pedro del Rosario to annul a contract of sale of certain lands entered into between petitioners and a certain corporation denominated Golden Earth, Inc. which was never joined as a party in the lower courts, and whose motion for intervention filed with this Court had to be denied for being obviously filed out of time, declaring the impugned sale to be null and void.

Petitioners assail the trial court's order declaring them in default. In the face of the finding of the Court of Appeals that in fact, service of summons for both petitioners who are mother and daughter, respectively, was made upon petitioner Florinda B. Espiritu, the daughter, at their house at Tenejeros, Malabon, Rizal and that said petitioner paid no heed thereto because she thought the papers received by her from the Sheriff, for herself and for her mother, were not important, since they seemed to refer to another case between her and her mother, on the one hand, and respondent Del Rosario, on the other, which had already been settled with the approval of the Court, it is evident that no error has been committed by the appellate court in holding that there was valid substituted service upon petitioners under Section 8 of Rule 14 of the Rules of Court. There is reason to believe, in absence of any showing to the contrary, that Florinda B. Espiritu

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was a person of suitable age and discretion on the occasion the summons were served on her at their residence. Under these circumstances, it is baseless for petitioners to pretend there has been a denial of due process to them.

Petitioners also contend that, on the merits, the judgment against them is erroneous, but we do not deem it necessary to pass on that aspect of this case. What is decisive here is that the Court of Appeals annulled, as did the trial court, a contract, not between the plaintiff and the defendants before them, but between said defendants and a third person, not a party to the action, the Golden Earth, Inc., vendee of the lands in question from petitioners. In the premises, it is beyond question that Golden Earth, Inc. is an indispensable party in this case and its absence renders ineffective all the proceedings subsequent to the filing of complaint, including the judgment. (Sec. 7, Rule 3, Rules of Court; *Dacudao vs. Dueñas,* L-14355, May 20, 1960, citing *Sanidad vs. Cabotaje,* 5 Phil. 204; *Garcia vs. Reyes,* 17 Phil. 127; *Barlosa vs. Polistico,* 47 Phil. 345; *Mayol vs. Blanco,* 61 Phil. 547, 548; *Soledad P. de Luz vs. Court of First Instance,* 77 Phil. 545; see also *Longao vs. Fakat,* L-23978, December 27, 1969, 30 SCRA 866.) What the trial court should have done upon perceiving that the vendee in the sale sought to be annulled was absent was to order that it be impleaded.

WHEREFORE, the decision of the Court of Appeals is reversed and it is ordered that this case be remanded to the trial court so that it may proceed in accordance with the above opinion, more particularly, to have Golden Earth, Inc. impleaded, and try the case all over again after having summons served anew on petitioners, thereby considering as of no effect its questioned default order. Costs against private respondent.

Zaldivar (Chairman), Fernando, Antonio, Fernandez, and *Aquino, JJ.*, concur.