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the same must be couched in clear and unmistakable terms in order that it may be applied. (84 C.J.S. pp. 659-800).

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 57218. December 12, 1986]

FAR CORPORATION and ROSA O. DE CARAM, *petitioners, vs.* **HON. RICARDO J. FRANCISCO, Presiding Judge of Branch VI, CFI of Rizal at Pasig, Metro Manila, and ELIZABETH P. NICOLAS,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; SERVICE OF COURT PROCESSES; UPON COUNSEL OF CORPORATION, CONSIDERED VALID SERVICE ON PARTY.**— As correctly observed by private respondents, he is not an ordinary lawyer of the corporation but an internal counsel thereof who is in charge of legal matters affecting petitioner corporation inclusive of case filed for or against it. In fact he is petitioners' counsel both in the lower court and in the Supreme Court in this case. In *Filoil Marketing Corporation v. Marine Development Corp. of the Phil.* (117 SCRA 89 [1982]), the Court considered counsel for defendant corporation as perforce defendant's agent and ruled that under Section 13, Rule 14 of the Rules of Court, service upon him is sufficient.

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2. **ID.; ID.; ID.; CHIEF OF FINANCE OF A CORPORATION, FALLS UNDER TERM 'AGENT' AUTHORIZED TO RECEIVE PROCESSES.**— Be that as it may, the issue before the Court is the validity of the summons received by the Chief of Finance and Administrative Section who is not the chief of said corporation. In the case at bar, Mr. Dizon as Administrative Chief is responsible for the management of the corporation which places him on the level of a manager contemplated by the Rules. As Chief of Finance, he is conferred with vital and sensitive functions and responsibilities. Under corporate and management organizational structure, a finance officer even holds a higher position than that of a cashier. Otherwise stated, Mr. Dizon is not one of the lesser officers of the corporation who would not have been able to appreciate the importance of the papers delivered to him. On the contrary, he falls squarely under the term Agent who is authorized by law to receive the processes of the Court for the corporation.

3. **ID.; ID.; SUBSTITUTED SERVICE; ADMINISTRATIVE CHIEF, CONSIDERED COMPETENT PERSON TO VALIDLY RECEIVE SERVICE OF SUMMONS.**— For the same reasons above-stated, Mr. Enrique Dizon as Chief of Administrative and Finance Section can be considered a competent person in charge of the office of defendant owner and manager of the corporation as provided for in Section 8, Rule 14 of the Rule of Court, to validly receive the service of summons for her who could not receive the same personally because she was absent from the office at the time service was being made.

4. **ID.; ID.; WRONGFUL SERVICE OF SUMMONS, NOT A VALID GROUND FOR DISMISSAL.**— It has been ruled that a case should not be dismissed simply because an original summons was wrongfully served, as it is difficult to conceive that where a defendant appears before the court complaining that he had not been validly summoned, the case against him would be dismissed. An alias summons can be actually served on such defendant. (*Linger & Fisher GMBH v. Intermediate Appellate Court* (125 SCRA 527 [1983]).

APPEARANCES OF COUNSEL

Melquiades Paredes for petitioners.
Macalinao Raquel-Santos & Associates for private respondent.

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DECISION

PARAS, *J.*:

This petition for *certiorari* seeks the annulment of the Orders of respondent Honorable Ricardo L. Francisco of the Court of First Instance of Rizal, Branch VI, to wit: (a) the Order dated March 18, 1981 denying petitioners' motion to dismiss the complaint in Civil Case No. 40297 "*Elizabeth P. Nicolas vs. Far Corporation et al.*" for lack of jurisdiction over the persons of the petitioners and (b) the Order dated June 1, 1981 denying petitioners' motion for reconsideration of aforesaid order.

Petitioner Far Corporation, existing under the laws of the Philippines, is the owner of a residential apartment located at No. 250 Amapola St., Palm Village, Makati, Metro Manila while its co-petitioner Rosa O. de Caram is the manager and owner of said corporation.

Private respondent Elizabeth P. Nicolas is the lessee of the above-mentioned apartment who allegedly received a notice from petitioner Corporation signed by its "manager and owner Caram, that the contract of lease was being terminated as of February 15, 1981. Private respondent allegedly requested that the lease be terminated instead on March 15, 1981 to enable her to look for another place. However, petitioners, allegedly refused to accept private respondent's tender of payment of rental for the period covering January 16, 1981 to February 15, 1981 but padlocked instead, the apartment unit occupied by private respondent. Consequently, on February 19, 1981, private respondent filed a complaint for damages with prayer for preliminary injunction in the above cited Civil Case No. 40297, at the Court of First Instance of Rizal, Pasig, Metro Manila (*Rollo*, pp. 20-23).

On February 27, 1981, the deputy sheriff of Rizal served the summonses and copies of the complaint for both defendants-petitioners at 2256 Pasong Tamo, Makati, Metro Manila, first upon Atty. Melquiades Paredes, the corporation's retained counsel, holding office at the same address, who however,

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declined to accept said process claiming that he is neither an agent nor officer of the corporation and suggested instead that the Sheriff find out if Mr. Enrique Dizon was the cashier of said corporation, and if so, to serve the summons on him for the defendant corporation. The summonses were finally served on Mr. Enrique Dizon who turned out to be not the cashier but the Finance and Administrative Manager of the Corporation. (*Rollo*, pp. 5-6).

Both petitioners filed motions to dismiss on the ground that the lower court did not acquire jurisdiction over their persons (*Rollo*, pp. 25-26; 29-31).

Private respondent (plaintiff therein) filed her opposition to both motions to dismiss on March 17, 1981. As above-stated, aforesaid motions as well as the motion for reconsideration, all filed by the petitioners, were denied in the lower court's Orders dated March 18, 1981 and May 4, 1981, respectively.

Hence, this petitioner.

In the resolution of July 6, 1981, the Second Division of this Court required private respondent to comment (*Rollo*, p. 56) and issued a restraining Order enjoining further proceedings in said case. Because of private respondent's failure to comment on the petition, the Court required her to explain such failure and to file the required comment, in the resolution of October 5, 1981. (*Rollo*, p. 62). Counsel for private respondent filed the required explanation (*Rollo*, p. 63) and comment (*Rollo*, p. 69), both on November 10, 1981. In the resolution of November 23, 1981, the Court accepted both explanation and comment and required petitioners to file a reply to the latter, (*Rollo*, p. 85) which Resolution was complied with on January 20, 1982 (*Rollo*, pp. 89-94). In the resolution of February 10, 1982, the Court gave due course to the petition and required the parties to file memoranda (*Rollo*, p. 95). Petitioner's memorandum was filed on April 26, 1982 (*Rollo*, pp. 101-113) while respondents' memorandum was filed on August 6, 1982 (*Rollo*, pp. 114-126) and the case was considered submitted for deliberation in the resolution of February 4, 1985. (*Rollo*, p. 131).

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The only issue in this case is whether or not there was valid service of summons on both petitioners by which the lower court acquired jurisdiction over their persons in Civil Case No. 40297.

Petitioners opposed the service of summons (1) for the corporation, on Enrique Dizon, the head of the Finance and Administrative Section of Far Corporation's branch office at Makati, Metro Manila who allegedly is not one of those authorized to receive the same under Section 13, Rule 14 of the Rules of Court and (2) for the owner and manager of said Corporation Rosa O. de Caram who could not be served personally because she was absent from the office, also on Enrique Dizon in a substituted service.

Petitioners argue that as contemplated in Section 13, Rule 14 of the Rules of Court, service of summons may be made on the president, manager, secretary, cashier, agent or any of the directors of the corporation. Hence, Mr. Dizon who is the head of the Finance and Administrative Section of said corporation and does not fall under any of the above-enumerated corporate officers, allegedly cannot validly receive the court processes in question for the corporation.

This contention is untenable.

It is undisputed that aforesaid court processes were initially served on Atty. Melquiades Paredes, the lawyer of the corporation and holding office within its premises. As correctly observed by private respondent, he is not an ordinary lawyer of the corporation but an internal counsel thereof who is in charge of legal matters affecting petitioner corporation inclusive of cases filed for or against it. (*Rollo*, pp. 116-117). In fact he is petitioners' counsel both in the lower court and in the Supreme Court in this case. In *Filoil Marketing Corporation v. Marine Development Corp. of the Phil.* (117 SCRA 89 [1982]), the Court considered counsel for defendant corporation, as perforce defendant's agent and ruled that under Section 13, Rule 14 of the Rules of Court, service upon him is sufficient.

However, in the case at bar, petitioners' counsel did not receive the service of summons as in his opinion he was not an agent

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of the corporation and instead referred the Sheriff to Mr. Enrique Dizon under the impression that the latter is the corporation's cashier but who turned out to be otherwise. Indeed, it is inconceivable that he does not know who is the cashier of the corporation or for that matter, any other officer authorized to receive summons of the Court. All these notwithstanding, Atty. Paredes had at least constructive notice that a case was filed against the corporation and that its appearance is being ordered by the court. In good faith, he could have verified if the processes of the Court which came to his knowledge were in fact received instead of resorting to technicalities in an apparent attempt to frustrate the ends of justice.

Be that as it may, the issue before the Court is the validity of the summons received by the Chief of Finance and Administrative Section who is not the cashier of said corporation. In *Villa Rey Transit Inc. v. Far East Motor Corporation* (81 SCRA 303 [1978]) the Court held that "According to jurisprudence, the rationale of all rules for service of process on corporation is that service must be made on a representative so integrated with the corporation sued as to make it a *priori* supposable that he will realize his responsibilities and know what he should do with any legal papers served on him." This case was cited in a recent decision *Summit Trading and Development Corp. v. Avendaño* (135 SCRA 397 [1985]) where it was ruled that the secretary of the president of the corporation in that case, is an agent of the corporation under Section 13, Rule 14 of the Rules of Court.

In the case at bar, Mr. Dizon as Administrative Chief is responsible for the management of the corporation which places him on the level of a manager contemplated by the Rules. As Chief of Finance, he is conferred with vital and sensitive functions and responsibilities. Under corporate and management organizational structure, a finance officer even holds a higher position than that of a cashier (*Rollo*, pp. 74-75). Otherwise stated, Mr. Dizon is not one of the lesser officers of the corporation who would not have been able to appreciate the importance of the papers delivered to him. On the contrary, he falls squarely under the term Agent who is authorized by law to receive the processes of the Court for the corporation.

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For the same reasons above-stated, Mr. Enrique Dizon can be considered a competent person in charge of the office of defendant owner and manager of the corporation as provided for in Section 8, Rule 14 of the Rules of Court, to validly receive the service of summons for her who could not receive the same personally because she was absent from the office at the time service was being made. (*Rollo*, pp. 78-79). In the same manner, the Sheriff could not be faulted in resorting to substituted service where prompt personal service is not possible. As stated by the *Court in Ablaza vs. C.I.R.* (126 SCRA 254 [1983]), "The purpose of summons is to give notice to the defendant or respondent that an action has been commenced against him. The defendant or respondent is thus put on guard as to the demands of the plaintiffs or petitioners." In the case at bar, no less than petitioners' counsel himself is aware of the processes being served on his clients so that the element of surprise is the least that can be invoked by petitioners in this case; much less can it be said that respondent Judge erred in holding that the reasons advanced against the validity of the service of summons for Rosa O. de Caram border on mere technicality. (*Rollo*, p. 45).

Finally, it has been ruled that a case should not be dismissed simply because an original summons was wrongfully served, as it is difficult to conceive that where a defendant appears before the court complaining that he had not been validly summoned, the case against him would be dismissed. An *alias summons* can be actually served on such defendant. (*Linger & Fisher GMBH v. Intermediate Appellate Court* (125, SCRA 527 [1983]).

PREMISES CONSIDERED, this petition is hereby DISMISSED, the restraining order previously issued is hereby LIFTED, and the case is REMANDED to the lower court for further proceedings.

SO ORDERED.

Feria (Chairman) Fernan, Alampay, and *Gutierrez, Jr., JJ.,* concur.