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intercourse with her for about one minute before she could push him.[20] The inconsistency, if at all, is an inconsequential one. The crux of the matter is that ROBERTO had had carnal knowledge of SEVERINA against her will and the sequential difference in what happened in a matter of minutes cannot affect her credibility especially so since recalling and relating the incident at a public trial could not but have been a painful, shameful and humiliating experience as, in fact, she was in tears when testifying, and this can be evidence of credibility.[21]

WHEREFORE, the judgment appealed from is hereby affirmed except in respect of the indemnity to the offended party, which is hereby increased to P20,000.00.[22] Costs against accused-appellant Roberto R. Ocampo.

SO ORDERED.

Yap (Chairman), Narvasa, Cruz, and *Paras, JJ.,* concur.

SECOND DIVISION

[G.R. No. L-48375. August 13, 1986]

JOSE C. CARIAGA, JR. AND MARIETA CARIAGA, *petitioners, vs.* **THE HON. ANTONIO Q. MALAYA, CAROLINA ALMONTE CARIAGA-SOON AND ANA ALMONTE CARIAGA,** *respondents.*

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[20] T.s.n., December 3, 1976, pp. 50-51.

[21] *People vs. Syquioco*, 118 SCRA 413 (1982).

[22] *People vs. Germino*, 133 SCRA 827 (1984); *People vs. Asturias*, 134 SCRA 405 (1985).

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SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; SUMMONS; EXTRA-TERRITORIAL SERVICE OF SUMMONS; WHEN AVAILABLE.—** Under Section 17, Rule 14, of the Rules of Court extraterritorial service of summons is proper: (1) when the action affects the personal status of the plaintiff; (2) when the action 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; (3) when the relief demanded in such an action consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; and (4) when defendant nonresident's property has been attached within the Philippines.

2. **ID.; ID.; ID.; ID.; MANNERS IN EFFECTING THEREOF.—** In any of such four cases provided in Sec. 17, Rule 14 of the Rules of Court the service of summons may, with leave of court, be effected out of the Philippines in three ways: (1) by personal service; (2) 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 should be sent by registered mail to the last known address of the defendant; and (3) in any other manner which the court may deem sufficient. The third mode of extraterritorial service of summons was substantially complied with in this case. (*De Midgely v. Ferandos*, 64 SCRA 23, 33, 34).

3. **CONSTITUTIONAL LAW; BILL OF RIGHTS; JUDICIAL DUE PROCESS; OBSERVED IN CASE AT BAR.—** There is no question that the requirement of due process has been met as shown by the fact that defendants actually received the summonses and copies of the complaint and as evidenced by the Registry Return Cards marked as Annex A-1 and Annex B-1. Whatever defect there may have been in the service of summons was aptly corrected by the court *a quo i*n its assailed order dated January 16, 1978, which gave said defendants ninety (90) days from receipt of order within which to file their responsive pleadings. Defendants have no reason to complain

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that they were unaware of the action filed against them or claim that they were denied due process.

APPEARANCES OF COUNSEL

Antonio M. Baez for petitioners.

Oscar A. Inocentes & Associates Law Office for private respondents.

D E C I S I O N

PARAS, *J.*:

This is a petition for *certiorari* to review and to set aside two orders of the respondent Judge dated January 16, 1978 and April 11, 1978 giving validity to the service of summons by registered mail upon the defendants Jose C. Cariaga, Jr. and Marieta Cariaga-Celis (petitioners herein), who are residing abroad. Petitioners aver that the issuance of said orders by the respondent Judge is tantamount to grave abuse of discretion.

The antecedent facts of the case at bar are briefly summarized as follows:

On October 6, 1976, plaintiffs (private respondents herein) Ana Almonte Cariaga Soon filed in her behalf and in behalf of her minor daughter Carolina, an action for (1) Annulment of a Deed of Extra-Judicial Partition of Real Property, (2) Cancellation of Transfer Certificate of Title (TCT), (3) Recovery of Real Property with damages, in the Court of First Instance (CFI) of Laguna, Branch IV, now known as the Regional Trial Court (RTC), docketed as Civil Case No. SC-1474. All defendants in said action filed their answer with counterclaim with the exception of defendants (petitioners herein) Jose C. Cariaga Jr. and Marieta Cariaga-Celis who were both residing abroad and were not served with summons. The lower court upon motion of plaintiffs granted them leave to effect extra-territorial service of summons upon said defendants pursuant to Secs. 7, 17 and 18 of Rule 14 of the New Rules of Court. (Annex "A", p. 9, Record). Accordingly, summonses with copies

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of the complaint were served to the defendants by registered mail abroad (Guam and U.S.A.) by the Clerk of Court at the instance of plaintiffs (Annex "B" and "C").

On August 30, 1977, defendants, who are residents of the Philippines filed a motion to set aside the said summons and to declare the service of summons abroad by registered mail as null and void, it being allegedly irregular and unauthorized under the provisions of Rule 14 of the Rules of Court (Annex "D") to which motion plaintiffs filed their opposition.

Acting on the issue the lower court ruled in this wise:

"O R D E R

"It appearing that but for the short period of fifteen (15) days from date of receipt of summons within which to answer given defendants Jose C. Cariaga, Jr. and Marietta C. Cariaga, who reside abroad, there was substantial compliance with Section 17 as related to Section 7 both of Rule 14 of the New Rules of Court in the service of said summons on said defendants, for LACK OF MERIT, the defendants' MOTION TO SET ASIDE SUMMONSES is, as it is, hereby DENIED.

"Defendants Jose C. Cariaga, Jr., and Marietta C. Cariaga, having already received copies of plaintiffs' Complaint with the service of summons on them, said defendants are given NINETY (90) days from receipt of this Order within which to file responsive pleadings.

"Let copies of this Order be served on the said defendants by registered mail with return cards at the instance of the plaintiffs.

"IT IS SO ORDERED.

Santa Cruz, Laguna, January 16, 1978.

Sgd. ANTONIO Q.MALAYA
ANTONIO Q.MALAYA
J u d g e"

(Annex F, p. 21, Record).

On March 31, 1978, defendants (petitioner herein), residing abroad, by special appearance and thru counsel filed their motion to consider the service of summons upon them by registered

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mail as null and void. On April 11, 1978, the lower court issued another order reading as follows:

"O R D E R

"Finding on merit to defendants' motion filed on March 31, 1978, through counsel, to consider the service of summons to them by registered mail, to be null and void because they are residing abroad, considering the findings of this Court as expounded in its January 16, 1978 Order, said motion is, as it is, hereby DENIED.

"IT IS SO ORDERED.

Santa Cruz, Laguna, April 11, 1978.

(SGD.) IRINEO V. MENDOZA
T/ IRINEO V. MENDOZA
J u d g e"

(Annex "H", p. 25 Record).

The main issue on appeal is whether the service of summons by registered mail upon defendants in the case at bar is one which is contemplated within the principles laid down in the provisions of Secs. 17, 7 and 22, Rule 14 of the New Rules of Court to Wit:

"Section 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 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."

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Sec. 7. *Personal service of summons.* —The summons shall be served by handing a copy thereof to the defendant in person, or if he refuses to receive it, by tendering it to him."

Sec. 22. *Proof of service by registered mail.* — Service by registered mail under this rule may be proved by a certificate of the sheriff or affidavit of the person especially authorized by the court, showing that a copy of the summons and papers attached thereto, inclosed in an envelope and addressed to the defendant, with postage prepaid, has been mailed, to which certificate or affidavit the registry receipt and return card shall be attached."

Questioning the validity of the aforequoted orders dated January 16, 1978 and April 11, 1978, petitioners aver that the lower court committed an error in allowing service of summons by registered mail, arguing that such mode must be coupled with publication in a newspaper of general circulation which was lacking in the case at bar. Petitioners' contention holds no water.

Under Section 17, extraterritorial service of summons is proper: (1) when the action affects the personal status of the plaintiff; (2) when the action 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; (3) when the relief demanded in such an action consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; and (4) when defendant nonresident's property has been attached within the Philippines (Sec. 17, Rule 14, Rules of Court).

In any of such four cases, the service of summons may, with leave of court, be effected out of the Philippines in three ways: (1) by personal service; (2) 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 should be sent by registered mail to the last known address of the defendant; and (3) in any other manner which the court may deem sufficient. The third mode of extraterritorial service of summons was substantially complied with in this case. (*De Midgely v. Ferandos*, 64 SCRA 23, 33, 34).

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There is no question that the requirement of due process has been met as shown by the fact that defendants actually received the summonses and copies of the complaint and as evidenced by the Registry Return Cards marked as Annex A-1 (page 56-Record) and Annex B-1. Whatever defect there may have been in the service of summons was aptly corrected by the court *a quo* in its assailed order dated January 16, 1978, which gave said defendants ninety (90) days from receipt of order within which to file their responsive pleadings. Defendants have no reason to complain that they were unaware of the action filed against them or claim that they were denied due process.

The case of *Habana v. Vamenta et al.*, L-27091, June 30, 1970, or 33 SCRA 569, cited by the petitioners in support of their claim has no bearing in the case at bar since in said case service of summons was never made, even if defendant knew of the case against him, while in the case under consideration, service of summons was made upon them (although claimed erroneously by them as defective).

WHEREFORE, premises considered, the petition for *certiorari* is hereby DISMISSED with costs against the petitioners.

SO ORDERED.

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