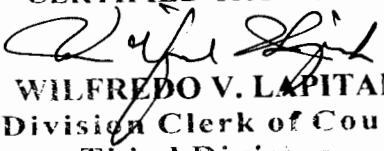




Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 15 2016

THIRD DIVISION

PHILIP YU,
 Petitioner,

G.R. No. 200072

Present:

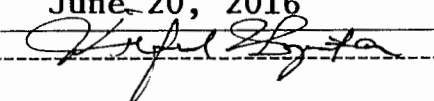
- versus -

VELASCO, JR., J., *Chairperson,*
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

VIVECA LIM YU,
 Respondent.

Promulgated:

June 20, 2016

x----------x

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision¹ dated September 30, 2011 and Resolution² dated January 5, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 111414 which granted the petition for the annulment of the Decision³ dated August 20, 2008 of the Regional Trial Court (RTC), Fourth Judicial Region, Branch 10, Balayan, Batangas.

The factual antecedents are as follows.

Petitioner Philip Yu and respondent Viveca Lim Yu were married on November 18, 1984. They had four children and maintained their conjugal

¹ Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Antonio L. Villamor and Jane Aurora C. Lantion, concurring; *rollo*, pp. 38-48.

² *Id.* at 50-51.

³ Penned by Judge Cristino E. Judit; *id.* at 66-76.



home at Room 1603 Horizon Condominium, Meralco Avenue, Pasig, Metro Manila. In 1993, however, Viveca left the conjugal home with their four children and filed a Petition for Legal Separation against Philip before the RTC of Pasig City, Branch 261, for repeated physical violence, grossly abusive conduct against her and the children, sexual infidelity, and attempt on her life. She prayed for permanent custody over the children, support, and the dissolution and distribution of their conjugal partnership valued at approximately ₱5,000,000.00.⁴

Philip denied the accusations against him claiming that it was Viveca who actually attacked him a few times. He narrated that his marriage to Viveca was arranged according to the Chinese tradition and that it was much later when he discovered Viveca's excessively jealous, cynical, and insecure behaviour. He countered that since she abandoned the family home, taking their four children away, she was not entitled to support. She was, likewise, unqualified to become the administrator of their conjugal funds, which had outstanding obligations. Thus, Philip prayed in his Counterclaim for the declaration of nullity of their marriage due to Viveca's psychological incapacity, rendering her incapable of complying with her marital obligations.⁵

On April 24, 2007, however, Philip filed a Motion to Withdraw Counterclaim for Declaration of Nullity of Marriage revealing that he no longer had the desire to have his marriage declared void. Despite Viveca's fervent opposition, the Pasig RTC granted the motion.⁶

On July 1, 2009, the RTC of Pasig City rendered a Decision⁷ dismissing the Petition for Legal Separation in the following wise:

From the facts obtaining in this case, the Court finds that the parties are in *pari delicto* warranting a denial of this petition. Respondent's illicit relationship with Linda Daet and his repeated verbal and physical abuses towards petitioner come within the purview of pars. 8 and 1 of Art. 55 of the Family Code of the Philippines whereas petitioner's unjustifiable abandonment bringing with her their children without the knowledge and consent of respondent and her assaulting respondent with a 10-inch knife are those contemplated in pars. 10 and 9 of the same code.

Notwithstanding the foregoing Court's findings, the same becomes moot with the declaration of nullity of the marriage of the parties, on the ground of the psychological incapacity of petitioner, Viveca Yu, pursuant to the Decision of Branch 10, RTC of Balayan, Batangas, which attained its finality on October 13, 2008. Since the

⁴ *Id.* at 39.

⁵ *Id.*

⁶ *Id.* at 40.

⁷ *Id.* at 219-225.



marriage of the parties was declared a nullity there is, therefore, no legal basis to issue a decree of legal separation to the spouses whose marriage has already been declared of no force and effect.

WHEREFORE, premises considered, this petition should be, as it is hereby DISMISSED, for lack of merit.

SO ORDERED.⁸

Claiming to be completely unaware of the proceedings before the RTC of Balayan, Batangas, nullifying her marriage with Philip on the ground of her psychological incapacity, Viveca filed a Petition for Annulment of Judgment⁹ before the CA seeking to annul the Decision dated August 20, 2008 of said court. According to Viveca, jurisdiction over her person did not properly vest since she was not duly served with Summons. She alleged that she was deprived of her right to due process when Philip fraudulently declared that her address upon which she may be duly summoned was still at their conjugal home, when he clearly knew that she had long left said address for the United States of America. Viveca likewise maintained that had Philip complied with the legal requirements for an effective service of summons by publication, she would have been able to rightly participate in the proceedings before the Batangas court.

On September 30, 2011, the CA granted Viveca's petition ruling as follows:

The *Petition for Declaration of Nullity of Marriage* affecting the personal status of private respondent is in the nature of an action *in rem*. This is so because the term "personal status" includes family relations, particularly the relations between husband and wife.

With this premise in mind, it is beyond cavil that the court *a quo* was justified in resorting to *Summons* by publication. Petitioner is a non-resident defendant who left the Philippines with her children way back in 1997 and has now been living in the United States of America. The court *a quo* validly acquired jurisdiction to hear and decide the case given that as adumbrated, in a proceeding *in rem*, jurisdiction over the person of the defendant is not a prerequisite to confer jurisdiction on the court, provided that the court acquires jurisdiction over the *res*.

Still and all, there is more to this case than meets the eye. Private respondent knew that petitioner left the conjugal home on account of their marital difficulties. She temporarily resided at her parent's house in Greenhills, Mandaluyong, Metro Manila. **But during the pendency of the *Legal Separation* case, she lived in Quezon City. This much was revealed by private respondent himself in the *Amended Answer with Counterclaim* filed in the *Legal Separation* suit –**

⁸ *Id.* at 225. (Emphasis ours)

⁹ *Id.* at 80-107.



“10. After abandoning the conjugal abode on 24 August 1993, petitioner resided at her parent’s house in Richbelt Condominium, Annapolis Street, Greenhills, Mandaluyong, Metro Manila, until she moved to her present address in October 1993. x x x x

This knowledge notwithstanding, private respondent declared before the court *a quo* that the “last known address” of petitioner was still her conjugal abode at Unit 1603 Horizon Condominium, Meralco Avenue, Ortigas, Pasig City. While private respondent knew that it was well-nigh impossible for petitioner to receive *Summons* and other court notices at their former conjugal home, still, he supplied the aforesaid address.

We cannot turn a blind eye to the fact that private respondent moved for the dismissal of his counterclaim for nullity of marriage in the Legal Separation case in 2007 as he had by then had the sinister motive of filing the *Petition for Declaration of Nullity of Marriage* before the court *a quo*. Private respondent knew that if he breathed a word on the filing and pendency of the latter *Petition*, petitioner would vigorously resist it as revealed by her tenacious opposition in the proceedings before the RTC-Pasig.

The deceitful scheme employed by private respondent deprived petitioner of her constitutional right to due process which ensued in her failure to participate in the proceedings before the court *a quo*. To Our mind, this compelling justification warrants the annulment of judgement.¹⁰

In its Resolution dated January 5, 2012, the CA denied Philip’s Motion for Reconsideration finding no cogent and persuasive reason to revise or reverse its Decision. Hence, this petition invoking the following grounds:

I.

THE COURT OF APPEALS ERRED WHEN IT SET ASIDE THE FINAL AND EXECUTORY DECISION OF THE COURT A QUO DESPITE ITS ACCURATE FINDINGS THAT THE COURT A QUO PROPERLY ACQUIRED JURISDICTION OVER THE ACTION IN REM THROUGH SUMMONS BY PUBLICATION.

II.

THE PUBLICATION OF THE ORDER OF THE COURT A QUO, SUMMONS, THE COMPLAINT AS WELL AS THE DECISION RENDERED THEREIN IS NOTICE TO THE WHOLE WORLD INCLUDING RESPONDENT. RESPONDENT WAS THEREFORE CONSTRUCTIVELY NOTIFIED OF THE PROCEEDINGS AND WAS NOT DENIED DUE PROCESS HAVING BEEN DULY NOTIFIED BY PUBLICATION.



¹⁰ *Id.* at 43-45. (Emphasis ours)

III.

RESPONDENT HAS BEEN DOMICILED IN THE UNITED STATES OF AMERICA FOR MORE THAN TEN (10) YEARS AND WHOSE ADDRESS IS UNKNOWN TO PETITIONER. AS FAR AS PETITIONER IS CONCERNED, UNIT 1603 HORIZON CONDOMINIUM, MERALCO AVENUE, PASIG CITY IS THE LAST KNOWN ADDRESS OF RESPONDENT, BEING THE CONJUGAL HOME.

IV.

PETITIONER IS CURRENTLY NOT A RESIDENT OF THE CONJUGAL HOME.

V.

THE OFFICE OF THE SOLICITOR GENERAL AND/OR THE OFFICE OF THE CITY PROSECUTOR OF BALAYAN, BATANGAS, APPEARED AS COUNSEL FOR THE STATE AND FULLY PROTECTED THE INTEREST OF THE STATE INCLUDING THE INTEREST OF RESPONDENT.

VI.

PETITIONER CANNOT BE FAULTED FOR MOVING FOR THE WITHDRAWAL OF HIS COUNTER-CLAIM FOR DECLARATION OF NULLITY OF MARRIAGE, WHICH IS ALLOWED BY SECTION 2, RULE 17 OF THE NEW RULES OF COURT AS AMENDED, AND SAID WITHDRAWAL WAS EVEN APPROVED BY THE RTC OF PASIG.

VII.

THE PETITION FOR ANNULMENT OF DECISION FILED BEFORE THE COURT OF APPEALS WAS DEFECTIVE AND NOT IN ACCORDANCE WITH RULE 47 OF THE NEW RULES OF COURT, AS AMENDED, FOR HAVING FAILED TO STATE AND ALLEGE THE DEFENSES THAT RESPONDENT HAS AGAINST PETITIONER.

VIII.

EVEN ASSUMING ARGUENDO THAT THE DEFENSES THAT ARE AVAILABLE TO RESPONDENT ARE THOSE THAT WERE PRESENTED IN THE LEGAL SEPARATION CASE THAT WAS DISMISSED BY THE RTC OF PASIG CITY, SAID GROUNDS ONLY BOLSTER THE FACT THAT THE DECISION DATED AUGUST 20, 2008 OF THE RTC OF BALAYAN, BATANGAS, CORRECTLY NULLIFIED THE MARRIAGE DUE TO RESPONDENT'S PSYCHOLOGICAL INCAPACITY.

IX.

THE COURT OF APPEALS DID NOT OBSERVE AND FOLLOW SECTIONS 6 AND 7 OF RULE 47 OF THE REVISED RULES OF COURT, AS AMENDED.

In essence, Philip questions the appellate court's judgment of setting aside the decision of the Batangas RTC despite its own finding that said court validly acquired jurisdiction when Summons was duly served on



Viveca by publication. He maintains that since service of summons was properly accomplished by publication thereof in a newspaper of general circulation as well as its personal service on Viveca at her last known address, it logically follows that any and all resolutions rendered by the trial court are valid and binding on the parties. Thus, the decision of the Batangas court which acquired jurisdiction over the *res* should be immutable as it is already final and executory.¹¹

Philip also questions the appellate court's choice of supporting jurisprudence alleging them to be inapplicable to the instant case. He asserts that the teachings in *Spouses Belen v. Judge Chavez*,¹² *Biacco v. Philippine Countryside Rural Bank*,¹³ and *Ancheta v. Judge Ancheta*¹⁴ fail to be instructive simply because they involve substituted service of summons whereas the mode of service in this case is by publication. Philip further asserts that said jurisprudential doctrines even teach us that in proceedings *in rem* or *quasi in rem*, such as the case at hand, jurisdiction over the defendant is not a prerequisite to confer jurisdiction on the court for as long as the court acquires jurisdiction over the *res*. Thus, summons must be served upon the defendant not for the purpose of vesting the court with jurisdiction but merely for satisfying the due process requirements, which in this case was duly complied with when Viveca, who is a non-resident, not found in the Philippines, was served with summons by publication.¹⁵

Hence, Philip faults the CA in finding that due to his bad faith in maliciously supplying the Batangas court with an erroneous address wherein Viveca may supposedly be summoned, she was deprived of her constitutional right to due process, warranting the annulment of the subject judgment. According to him, as far as he was concerned, Viveca's last known address was their conjugal home. This is because the addresses supplied in the proceedings of the Legal Separation case before the RTC of Pasig City were merely temporary in nature.¹⁶ Philip recalled that when Viveca left their conjugal abode on August 24, 1993, she temporarily stayed at her parents' house in Greenhills, Mandaluyong, for less than two months then, thereafter, stayed at her temporary residence at Domingo Street, Cubao, Quezon City, in October 1993. Considering that said addresses were merely temporary, Philip claims that he should not be faulted for using their conjugal abode as Viveca's "last known address." According to him, what is mandated by the rules as the defendant's "last known address" is his or her last known *permanent* address, and certainly not one of temporary nature.¹⁷

¹¹ *Id.* at 16.

¹² 573 Phil. 58 (2008).

¹³ 544 Phil. 45 (2007).

¹⁴ 468 Phil. 900 (2004).

¹⁵ *Rollo*, p. 18.

¹⁶ *Id.* at 23.

¹⁷ *Id.* at 25.



The petition is bereft of merit.

Annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy. Section 2, Rule 47 of the 1997 Rules of Civil Procedure provides that judgments may be annulled only on grounds of extrinsic fraud and lack of jurisdiction or denial of due process.¹⁸ The objective of the remedy of annulment of judgment or final order is to undo or set aside the judgment or final order, and thereby grant to the petitioner an opportunity to prosecute his cause or to ventilate his defense. If the ground relied upon is lack of jurisdiction, the entire proceedings are set aside without prejudice to the original action being refiled in the proper court. If the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the CA may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein.¹⁹

Extrinsic fraud exists when there is a fraudulent act committed by the prevailing party outside of the trial of the case, whereby the defeated party was prevented from presenting fully his side of the case by fraud or deception practiced on him by the prevailing party.²⁰ Fraud is extrinsic where the unsuccessful party had been prevented from exhibiting fully his case, by means of fraud or deception, as by keeping him away from court, or by a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; these and similar cases which show that there has never been a real contest in the trial or hearing of the case are reasons for which a new suit may be sustained to set aside and annul the former judgment and open the case for a new and fair hearing. Ultimately, the overriding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.²¹

In the present case, We find that Viveca was completely prevented from participating in the Declaration of Nullity case because of the fraudulent scheme employed by Philip insofar as the service of summons is concerned.

Summons is a writ by which the defendant is notified of the action brought against him. Through its service, the court acquires jurisdiction over

¹⁸ *Biacó v. Philippine Countryside Rural Bank*, *supra* note 13, at 53.

¹⁹ *Pinasukan Seafood House, Roxas Bouley Ard, Inc. v. Far East Bank & Trust Company, now Bank of the Philippine Islands, and Hector I. Galura*, G.R. No. 159926, January 20, 2014, 714 SCRA 226, 241.

²⁰ *Alba v. Court of Appeals*, 503 Phil. 451, 462 (2005).

²¹ *Pinasukan Seafood House, Roxas Bouley Ard, Inc. v. Far East Bank & Trust Company, now Bank of the Philippine Islands, and Hector I. Galura*, *supra* note 19, at 243.



his person.²² As a rule, Philippine courts cannot try any case against a defendant who does not reside and is not found in the Philippines because of the impossibility of acquiring jurisdiction over his person unless he voluntarily appears in court. Section 15, Rule 14 of the Rules of Court, however, enumerates the actions *in rem* or *quasi in rem* when Philippine courts have jurisdiction to hear and decide the case because they have jurisdiction over the *res*, and jurisdiction over the person of the non-resident defendant is not essential.²³ Said section provides:

Section 15. 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 6; 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. (17a)

Thus, under Section 15 of Rule 14, a defendant who is a non-resident and is not found in the country may be served with summons by extraterritorial service in four instances: (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 consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; or (4) when the property of the defendant has been attached within the Philippines.²⁴

In these instances, extraterritorial service of summons may be effected under any of three modes: (1) by personal service out of the country, with leave of court; (2) *by publication and sending a copy of the summons and order of the court by registered mail to the defendant's last known address*, also with leave of court; or (3) by any other means the judge may consider sufficient.²⁵

²² *Romualdez-Licaros v. Licaros*, 449 Phil. 824, 833 (2003).

²³ *Macasaet v. Co, Jr.*, G.R. No. 156759, June 5, 2013, 697 SCRA 187, 200.

²⁴ *Romualdez-Licaros v. Licaros*, *supra* note 22, at 835.

²⁵ *Id.*

In the present case, it is undisputed that when Philip filed the Petition for Declaration of Nullity of Marriage, an action which affects his personal status, Viveca was already residing in the United States of America. Thus, extraterritorial service of summons under Section 15, Rule 14 of the Rules of Court is the proper mode by which summons may be served on Viveca, a non-resident defendant who is not found in the Philippines. In compliance therewith, Philip claims that Viveca was duly served summons because: (1) copies of the summons, complaint, and order of the Batangas court were published in *Tempo*, a newspaper of general circulation on March 27, 2008 and April 3, 2008;²⁶ and (2) the sheriff served copies of the summons, complaint, and order of the Batangas court on Viveca at their conjugal home in Pasig City, her last known address.²⁷ Thus, he contends that the second mode of extraterritorial service of summons mentioned above – by publication and sending a copy of the summons and order of the court by registered mail to the defendant’s last known address – was sufficiently complied with. The Court finds, however, that such service of summons on their conjugal home address cannot be deemed compliant with the requirements of the rules and is even tantamount to deception warranting the annulment of the Batangas court’s judgment.

Philip fervently asserts the propriety of their conjugal home address as Viveca’s “last known address,” well within the true meaning and intent of the rules. But as borne by the records of the instant case, not only is he mistaken, factual considerations herein belie his claims of good faith. First and foremost, it is undisputed that the parties herein are also parties in a Legal Separation case, previously filed by Viveca way back in 1994. There was, in said case, a disclosure of their basic personal information, which customarily includes their respective local addresses, wherein they may be served with court papers. In fact, as pointed out by the appellate court, Philip knew that Viveca had already left their conjugal home and moved to a different local address for purposes of the pendency of the Legal Separation case, as shown by his stipulation in his Amended Answer with Counterclaim that “after abandoning the conjugal abode on 24 August 1993, petitioner resided at her parent’s house in Richbelt Condominium, Annapolis Street, Greenhills, Mandaluyong, Metro Manila, until she moved to her present address in October 1993.” Thus, Philip cannot be allowed to feign ignorance to the fact that Viveca had already intentionally abandoned their conjugal abode and that of all the addresses that Viveca resided at, their conjugal home in Horizon Condominium is her least recent address. In fact, it may very well be considered as the address she is least likely to be found considering the circumstances in which she left the same. Note that from the very beginning of the Legal Separation case in 1994, all the way up until the promulgation by the Pasig RTC of its decision thereon in 2009, there is no showing that Viveca had ever received any document in relation to said case,

²⁶ *Rollo*, p. 11.

²⁷ *Id.* at 12.



nor is there any proof that Philip had ever sent any pertinent file to Viveca, at the conjugal address. There is, therefore, no reason for Philip to assume, in good faith, that said address is in truth and in fact Viveca's "last known address" at which she may receive summons. His contention that the rules require the defendant's "last known address" to be of a permanent, and not of a temporary nature, has no basis in law or jurisprudence.

In addition, the Court is curious as to why Philip filed the instant Petition for Declaration of Nullity of Marriage²⁸ before the RTC of Batangas City on February 15, 2008 when less than a year before filing the same, he had motioned the RTC of Pasig City on April 24, 2007 to withdraw his counterclaim for the same declaration of nullity of marriage.²⁹ In his petition before the Court, Philip explained that he withdrew his counterclaim in the Legal Separation case in his "desire to explore the possibility of having a so-called 'universal settlement' of all the pending cases with respondent and her relatives for the sake of his love for his four (4) children."³⁰ Yet, in an apparent, direct contravention of this so-called "desire," he filed an identical action which sought the same nullity of his marriage with Viveca. Thus, while there may be no outright admission on Philip's part as to a sinister motive, his inconsistent actions effectively negate his claims of good faith.

It is interesting to note, moreover, that as pointed out by Viveca, Philip does not even reside in Batangas, the city of the court wherein he filed his Petition for Declaration of Nullity of Marriage. In a Certification³¹ issued by Ricardo V. Bautista, Barangay Chairman of Poblacion 1, Calatagan, Batangas, it was categorically stated that "the name Philip Yu is not a resident of Barangay Poblacion 1, Calatagan, Batangas." Section 4 of A.M. No. 02-11-10-SC, otherwise known as the *Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages*, which took effect on March 15, 2003, provides:

Section 4. *Venue.* - **The Petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing.** Or in the case of non-resident respondent, where he may be found in the Philippines, at the election of the petitioner.³²

It is, therefore, evident that not only did Philip contradict his previous Motion to Withdraw his Counterclaim for the Declaration of Nullity of

²⁸ *Id.* at 52-60.

²⁹ *Id.* at 39.

³⁰ *Id.* at 27.

³¹ *Id.* at 226.

³² Emphasis supplied.



marriage, he even violated a basic mandate of law so as to be able to file the same action before a different court in a city he was not even a resident of.

Thus, while individually and in isolation, the aforementioned doubtful circumstances may not instantly amount to extrinsic fraud, these circumstances, when viewed in conjunction with each other, paint a deceitful picture which resulted in a violation of Viveca's constitutional right to due process. True, the service of summons in this case is not for the purpose of vesting the court with jurisdiction, but for the purpose of complying with the requirements of fair play or due process. But because of Philip's employment of deceptive means in the service of summons on Viveca, said purpose of satisfying the due process requirements was never accomplished. To this Court, when Philip declared before the Batangas court that Viveca's last known address was still their conjugal home with full and undisputed knowledge that she had already intentionally abandoned the same and had even established a more recent, local residence herein evinces a clear lack of good faith. As a result, Viveca never had knowledge of the filing of the Declaration of Nullity of Marriage suit, only finding out about the same when the Pasig City RTC had promulgated its decision on the Legal Separation case. It is clear, therefore, that because of the service of summons at the erroneous address, Viveca was effectively prevented from participating in the proceedings thereon.

In *Acance v. Court of Appeals*,³³ where the extraterritorial service of summons on the non-resident, US citizen, defendants therein were held to be defective due to the absence of proof that the summons, complaint, and order of the court were duly served at their last known correct address, the Court ruled that "the failure to strictly comply correctly with the requirements of the rules regarding the mailing of copies of the summons and the order for its publication is a fatal defect in the service of summons."³⁴ Citing *Dulap, et al. v. Court of Appeals, et al.*,³⁵ it elucidated as follows:

It is the duty of the court to require the fullest compliance with all the requirements of the statute permitting service by publication. Where service is obtained by publication, the entire proceeding should be closely scrutinized by the courts and a strict compliance with every condition of law should be exacted. Otherwise great abuses may occur, and the rights of persons and property may be made to depend upon the elastic conscience of interested parties rather than the enlightened judgment of the court or judge.³⁶



³³ 493 Phil. 676 (2005).

³⁴ *Acance v. Court of Appeals, supra*, at 688.

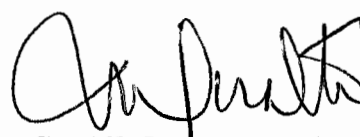
³⁵ 149 Phil. 636 (1971).

³⁶ *Dulap, et al. v. Court of Appeals, supra*, at 649. (Citation omitted)

Indeed, due process requires that those with interest to the thing in litigation be notified and given an opportunity to defend those interests.³⁷ When defendants are deprived of such opportunity to duly participate in, and even be informed of, the proceedings, due to a deceitful scheme employed by the prevailing litigant, as in this case, there exists a violation of their due process rights. Any judgment issued in violation thereof necessarily suffers a fatal infirmity for courts, as guardians of constitutional rights cannot be expected to deny persons their due process rights while at the same time be considered as acting within their jurisdiction.³⁸ This Court, therefore, deems as proper the annulment of the Batangas court's judgment issued without proper service of summons.


WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Decision dated September 30, 2011 and Resolution dated January 5, 2012 of the Court of Appeals in CA-G.R. SP No. 111414 are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson




JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice

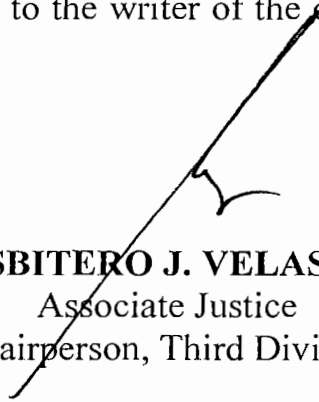
³⁷ *De Pedro v. Romasan Development Corporation*, G.R. No. 194751, November 26, 2014, 743 SCRA 52, 72.

³⁸ *Id.*


FRANCIS H. JARDELEZA
 Associate Justice

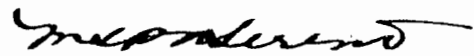
ATTESTATION

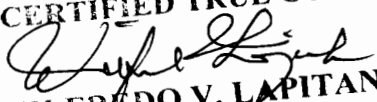
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 15 2016