



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

SPOUSES BENEDICT and G.R. No. 205249  
SANDRA MANUEL,  
Petitioners,

Present:

CARPIO, *Chairperson*,  
DEL CASTILLO,  
MENDOZA,  
REYES, \* and  
LEONEN, *JJ.*

-versus-

RAMON ONG,  
Respondent.

Promulgated:

OCT 15 2014

*HM Cabalagor*

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DECISION

LEONEN, *J.*:

This resolves a petition<sup>1</sup> for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, praying that the June 28, 2012 decision<sup>2</sup> and the December 19, 2012 resolution<sup>3</sup> of the Court of Appeals in CA-G.R. SP No. 119270 be reversed and set aside.

The assailed June 28, 2012 decision dismissed for lack of merit the petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure filed by petitioners Benedict and Sandra Manuel (the Spouses Manuel) and sustained the November 30, 2010 and February 16, 2011 orders of the

\* Designated acting member per Special Order No. 1844 dated October 14, 2014.

<sup>1</sup> *Rollo*, pp. 3-44.

<sup>2</sup> *Id.* at 49-59.

<sup>3</sup> *Id.* at 62-63.

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Regional Trial Court, La Trinidad, Benguet.<sup>4</sup> The assailed December 19, 2012 resolution of the Court of Appeals denied the Spouses Manuel's motion for reconsideration. The Regional Trial Court's November 30, 2010 order denied their motion to lift order of default, while its February 16, 2011 order denied their motion for reconsideration.<sup>5</sup>

On December 21, 2009, respondent Ramon Ong (Ong) filed with the Regional Trial Court, La Trinidad, Benguet, a complaint for *accion reivindicatoria*.<sup>6</sup> Ong charged the Spouses Manuel with having constructed improvements — through force, intimidation, strategy, threats, and stealth — on a property he supposedly owned.<sup>7</sup> The case was docketed as Civil Case No. 09-CV-2582.<sup>8</sup>

On January 19, 2010, Ong filed an “amended complaint.”<sup>9</sup> On February 3, 2010, summons was issued directed to the Spouses Manuel.<sup>10</sup>

On April 23, 2010, Ong filed with the Regional Trial Court a motion to declare the Spouses Manuel in default.<sup>11</sup> Per the sheriff's return on summons, on February 12, 2010, Sheriff Joselito Sales, along with Ong's counsel, Atty. Christopher Donaal, and a certain Federico Laureano, attempted to personally serve summons on the Spouses Manuel at their address in Lower Bacong, Loacan, Itogon, Benguet.<sup>12</sup> The Spouses Manuel, however, requested that service be made at another time considering that petitioner Sandra Manuel's mother was then critically ill.<sup>13</sup> The sheriff's return further indicates that on March 16, 2010, another attempt at personal service was made. After Sheriff Joselito Sales had personally explained to petitioner Sandra Manuel the content of the summons and the complaint, the latter refused to sign and receive the summons and the complaint. Sheriff Joselito Sales was thus prompted to merely tender the summons and complaint to petitioner Sandra Manuel and to advise her to file their answer within fifteen (15) days.<sup>14</sup> As the Spouses Manuel failed to file their answer within this period, Ong asked that they be declared in default.<sup>15</sup>

On June 28, 2010, the Regional Trial Court issued an order granting Ong's motion to declare the Spouses Manuel in default. Following this, Ong

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<sup>4</sup> Id. at 49 and 59.

<sup>5</sup> Id. at 49–50.

<sup>6</sup> Id. at 50.

<sup>7</sup> Id.

<sup>8</sup> Id. at 79.

<sup>9</sup> Id. at 7 and 55.

<sup>10</sup> Id. at 7.

<sup>11</sup> Id. at 51.

<sup>12</sup> Id. at 8.

<sup>13</sup> Id. at 8 and 51.

<sup>14</sup> Id.

<sup>15</sup> Id. at 51 and 81.

moved for the ex parte presentation of evidence, which the Regional Trial Court granted.<sup>16</sup>

On September 13, 2010, the Spouses Manuel filed a motion to lift the order of default. They alleged that it is the siblings of petitioner Sandra Manuel who resided in Lower Bacong, Itogon, Benguet, while they resided in Ambiong, La Trinidad, Benguet. Thus, summons could not have been properly served on them in the former address. They surmised that Ong and his companions mistook petitioner Sandra Manuel's siblings as the defendants in Civil Case No. 09-CV-2582. They further claimed that they only subsequently received via registered mail copies of (1) a compliance and manifestation filed by Ong and (2) the Regional Trial Court's order scheduling the ex parte presentation of evidence. Attached to the Spouses Manuel's motion to lift order of default was their answer.<sup>17</sup>

In its order dated November 30, 2010, the Regional Trial Court denied the Spouses Manuel's motion to lift order of default. It noted that, first, their motion was not sworn to, as required by the 1997 Rules of Civil Procedure, and, second, they did not show that their failure to timely file an answer "was due to fraud, accident, mistake or excusable negligence."<sup>18</sup> In its order dated February 16, 2011, the Regional Trial Court denied the Spouses Manuel's motion for reconsideration.<sup>19</sup>

Aggrieved, the Spouses Manuel filed a petition for certiorari before the Court of Appeals.<sup>20</sup>

As mentioned, the assailed June 28, 2012 decision of the Court of Appeals dismissed the Spouses Manuel's Rule 65 petition for lack of merit. The assailed December 19, 2012 resolution of the Court of Appeals denied their motion for reconsideration.

Hence, this petition.

For resolution is the sole issue of whether the Spouses Manuel may be granted relief from the Regional Trial Court's June 28, 2010 order of default.

### **Jurisdiction over the persons of the Spouses Manuel acquired**

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<sup>16</sup> Id. at 51.

<sup>17</sup> Id. at 12, 51-52.

<sup>18</sup> Id. at 53.

<sup>19</sup> Id.

<sup>20</sup> Id. at 49 and 53.

As a preliminary matter, we rule on whether jurisdiction over the persons of the Spouses Manuel, as defendants in Civil Case No. 09-CV-2582, was validly acquired. This preliminary matter is determinative of whether the fifteen-day period within which they must file their answer started to run, thereby facilitating the context in which they could have validly been declared to be in default.

We hold that jurisdiction over the persons of both defendants in Civil Case No. 09-CV-2582 — the Spouses Benedict and Sandra Manuel — was validly acquired. This is so because personal service of summons, via tender to petitioner Sandra Manuel, was made by Sheriff Joselito Sales on March 16, 2010.

Rule 14, Section 6 of the 1997 Rules of Civil Procedure provides:

SEC. 6. *Service in person on defendant.* — Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him.

Tendering summons is itself a means of personal service as it is contained in Rule 14, Section 6. Personal service, as provided by Rule 14, Section 6, is distinguished from its alternative — substituted service — as provided by Rule 14, Section 7:

SEC. 7. *Substituted service.* — If, for justifiable causes, the defendant cannot be served within a reasonable time *as provided in the preceding section*, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof. (Emphasis supplied)

In this case, the sheriff's return on summons indicated that Sheriff Joselito Sales endeavored to personally hand the summons and a copy of the complaint to the Spouses Manuel on two (2) separate occasions. He relented from doing so on the first occasion in deference to the medical condition of petitioner Sandra Manuel's mother. On the second occasion, he was constrained to tender the summons and copy of the complaint as petitioner Sandra Manuel refused to accept them.

The Spouses Manuel did not deny the occurrence of the events narrated in the sheriff's return but claimed that no valid service of summons was made. They claimed that they did not reside in Lower Bacong, Loacan,

Itoyon, Benguet, where the service of summons was made. From this, they surmised that the “Sandra Manuel” who was specifically identified in the sheriff’s return was someone other than petitioner Sandra Manuel.

The Spouses Manuel cannot capitalize on the supposed variance of address. Personal service of summons has nothing to do with the location where summons is served. A defendant’s address is inconsequential. Rule 14, Section 6 of the 1997 Rules of Civil Procedure is clear in what it requires: *personally handing the summons to the defendant* (albeit tender is sufficient should the defendant refuse to receive and sign). What is determinative of the validity of personal service is, therefore, the person of the defendant, not the locus of service.

In any case, the Court of Appeals is correct in pointing out that the Spouses Manuel’s self-serving assertion must crumble in the face of the clear declarations in the sheriff’s return.<sup>21</sup> Pursuant to Rule 131, Section 3(m) of the Revised Rules on Evidence,<sup>22</sup> the acts of Sheriff Joselito Sales and the events relating to the attempt to personally hand the summons and a copy of the complaint to the Spouses Manuel, as detailed in the sheriff’s return, enjoy the presumption of regularity.<sup>23</sup> Moreover, Sheriff Joselito Sales must be presumed to have taken ordinary care and diligence in carrying out his duty to make service upon the proper person(s) and not upon an impostor.<sup>24</sup>

A sheriff’s return, if complete on its face, must be accorded the presumption of regularity and, hence, taken to be an accurate and exhaustive recital of the circumstances relating to the steps undertaken by a sheriff. In this case, the Spouses Manuel have harped on their (self-serving) claim of maintaining residence elsewhere but failed to even allege that there was anything irregular about the sheriff’s return or that it was otherwise incomplete.

Having alleged irregularities in the service of summons, it was incumbent upon the Spouses Manuel to adduce proof of their claims. All they mustered was their self-serving allegation of an alternative address. If

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<sup>21</sup> Id. at 54.

<sup>22</sup> REVISED RULES ON EVIDENCE, Rule 131, sec. 3(m):  
SEC. 3. *Disputable presumptions.* — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

.....  
(m) That official duty has been regularly performed;

<sup>23</sup> *Rollo*, pp. 54–55.

<sup>24</sup> REVISED RULES ON EVIDENCE, Rule 131, sec. 3(d):  
SEC. 3. *Disputable presumptions.* — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

.....  
(d) That a person takes ordinary care of his concerns;  
.....

at all, this claim of maintaining residence elsewhere should not even be lent an iota of credibility considering that, as respondent Ramon Ong pointed out, the barangay clearances, which the Spouses Manuel themselves attached to one of their pleadings (as proof of their identities), actually indicated that they were residents of Bacong Loacan, Itogon, Benguet.<sup>25</sup> Their lie is, thus, revealed by their own pleading.

As the Spouses Manuel not only failed in discharging the burden of proving their allegation but even succeeded in contradicting themselves, Sheriff Joselito Sales' recollection of events must be taken to be true. Thus, valid personal service of summons, via tender to petitioner Sandra Manuel, was made. From this, it follows that jurisdiction over the persons of petitioners Benedict and Sandra Manuel was acquired by the Regional Trial Court, La Trinidad, Benguet, in Civil Case No. 09-CV-2582.

**The Spouses Manuel are not entitled to relief from the order of default**

As valid service of summons was made on them, it was incumbent upon the Spouses Manuel, pursuant to Rule 11, Section 1 of the 1997 Rules of Civil Procedure,<sup>26</sup> to file their answer within fifteen (15) days from March 16, 2011. Having failed to do so, they were rightly declared to be in default.

Rule 9, Section 3 of the 1997 Rules of Civil Procedure provides for when a party to an action may be declared in default. Further, Rule 9, Section 3(b) governs the grant of relief from orders of default:

SEC. 3. *Default; declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

(a) *Effect of order of default.* — A party in default shall be entitled to notice of subsequent proceedings but not to take part in the trial.

(b) *Relief from order of default.* — A party declared in default may at any time after notice thereof and before judgment file a *motion under oath* to set aside the order of default upon proper

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<sup>25</sup> *Rollo*, p. 82.

<sup>26</sup> RULES OF CIVIL PROCEDURE, Rule 11, sec. 1:

SEC. 1. *Answer to the complaint.* — The defendant shall file his answer to the complaint within fifteen (15) days after service of summons, unless a different period is fixed by the court.

showing that his failure to answer was *due to fraud, accident, mistake or excusable negligence and that he has a meritorious defense*. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice. (Emphasis supplied)

Pursuant to Rule 9, Section 3, a court may proceed to render judgment as the pleading may warrant should a defendant fail to timely file his or her answer. However, a court may decline from immediately rendering judgment and instead require the plaintiff to present evidence. Per Rule 9, Section 3(a), a party declared to be in default shall nevertheless be “entitled to notice of subsequent proceedings,” although he or she may no longer take part in the trial.

As explained in *Spouses Delos Santos v. Carpio*,<sup>27</sup> “there are three requirements which must be complied with by the claiming party before the court may declare the defending party in default:

- (1) the claiming party must file a motion asking the court to declare the defending party in default;
- (2) the defending party must be notified of the motion to declare him in default;
- (3) the claiming party must prove that the defending party has failed to answer within the period provided by the Rule.”<sup>28</sup>

All these requisites were complied with by respondent Ramon Ong.

It is not disputed that Ong filed a motion to declare the Spouses Manuel in default. It is also not disputed that the latter filed their answer after the fifteen-day period, counted from March 16, 2010, had lapsed. The Spouses Manuel only filed their answer along with their motion to lift order of default on September 13, 2010.

It is similarly settled that the Spouses Manuel were notified that a motion to declare them in default had been filed. They acknowledged in the present petition for certiorari that on June 23, 2010, Ong filed a compliance to the Regional Trial Court’s April 30, 2010 order that required the submission of the registry return card evidencing the mailing to the Spouses Manuel of a copy of the motion to have them declared in default.

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<sup>27</sup> 533 Phil. 42 (2006) [Per J. Austria-Martinez, First Division].

<sup>28</sup> Id. at 51.

Not only were the requisites for declaring a party in default satisfied, the Spouses Manuel's motion to lift order of default was also shown to be procedurally infirm.

Consistent with Rule 9, Section 3(b) of the 1997 Rules of Civil Procedure, "the remedy against an order of default is a motion to set it aside on the ground of fraud, accident, mistake, or excusable negligence."<sup>29</sup> However, it is not only the motion to lift order of default which a defendant must file. As this court emphasized in *Agravante v. Patriarca*,<sup>30</sup> to the motion to lift order of default must "be appended an affidavit showing the invoked ground, and another, denominated affidavit of merit, setting forth facts constituting the party's meritorious defense or defenses."<sup>31</sup>

The need for an affidavit of merit is consistent with Rule 8, Section 5 of the 1997 Rules of Civil Procedure,<sup>32</sup> which requires that "[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity."

In *Montinola, Jr. v. Republic Planters Bank*,<sup>33</sup> this court noted that the three (3) requisites that must be satisfied by a motion in order "to warrant the setting aside of an order of default for failure to file answer, are:

- (1) it must be made by motion under oath by one that has knowledge of the facts;
- (2) it must be shown that the failure to file answer was due to fraud, accident, mistake or excusable negligence; and
- (3) there must be a proper showing of the existence of a meritorious defense."<sup>34</sup> (Citations omitted)

Consistent with *Agravante*, it is through an affidavit of merit that a defendant seeking relief from an order of default shows that "the failure to file answer was due to fraud, accident, mistake or excusable negligence."<sup>35</sup>

In this case, the Court of Appeals noted that the Spouses Manuel's motion to lift order of default was not made under oath. We add that this motion was not accompanied by an affidavit of merit specifying the facts

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<sup>29</sup> *Agravante v. Patriarca*, 262 Phil. 127, 133 (1990) [Per J. Narvasa, First Division].

<sup>30</sup> 262 Phil. 127 (1990) [Per J. Narvasa, First Division].

<sup>31</sup> *Id.* at 133–134.

<sup>32</sup> RULES OF CIVIL PROCEDURE, Rule 8, sec. 5:

SEC. 5. *Fraud, mistake, condition of the mind.* — In all averments of fraud or mistake the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge or other condition of the mind of a person may be averred generally.

<sup>33</sup> 244 Phil. 49 (1988) [Per J. Paras, Second Division].

<sup>34</sup> *Id.* at 56.

<sup>35</sup> *Id.*



which would show that their non-filing of an answer within fifteen (15) days from March 16, 2010 was due to fraud, accident, mistake, or excusable negligence.

Failing *both* in making their motion under oath and in attaching an affidavit of merits, the Spouses Manuel's motion to lift order of default must be deemed pro-forma. It is not even worthy of consideration.

Certainly, there is jurisprudence to the effect that an affidavit of merit is not necessary "where a motion to lift an order of default is grounded on the very root of the proceedings [such as] where the court has not acquired jurisdiction over the defendants."<sup>36</sup> Similarly, there is jurisprudence stating that "when a motion to lift an order of default contains the reasons for the failure to answer as well as the facts constituting the prospective defense of the defendant and it is sworn to by said defendant, neither a formal verification nor a separate affidavit of merit is necessary."<sup>37</sup>

However, in this case, the Spouses Manuel failed not only in attaching an affidavit of merit *but also* in making their motion under oath. They are, therefore, left without any alternative on which to rest. Their motion is utterly ineffectual.

Apart from their failure to make their motion to lift order of default under oath and to attach to it an affidavit of merit, the Court of Appeals also noted that the Spouses Manuel set their motion to lift order of default for hearing *on the same date that they filed it* (i.e., September 13, 2010). Thus, they also violated Rule 15, Section 4 of the 1997 Rules of Civil Procedure,<sup>38</sup> which requires that service of a motion upon an adverse party must be made in such a manner that ensures receipt by the latter "at least three (3) days before the date of hearing. . . ."

We do not lose sight of the admonitions that have been made in jurisprudence that, as a rule, courts should be liberal in setting aside orders of default and that default judgments are frowned upon.<sup>39</sup> Indeed, apart from a motion to lift order of default, other remedies are available to a defaulted defendant even after judgment has been rendered. Thus, if judgment had already been rendered but has not yet become final and

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<sup>36</sup> *Ponio v. Intermediate Appellate Court*, 218 Phil. 548, 550 (1984) [Per J. Abad Santos, Second Division].

<sup>37</sup> *Tanhu v. Judge Ramolete*, 160 Phil. 1101, 1115 (1975) [Per J. Barredo, Second Division].

<sup>38</sup> RULES OF CIVIL PROCEDURE, Rule 15, sec. 4:

SEC. 4. *Hearing of motion*. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

<sup>39</sup> *Acance v. Court of Appeals*, 493 Phil. 676, 689 (2005) [Per J. Callejo, Sr., Second Division]; *Montinola, Jr. v. Republic Planters Bank*, 244 Phil. 49, 58 (1988) [Per J. Paras, Second Division].

executory, an appeal asserting that the judgment was contrary to the law or to the evidence,<sup>40</sup> or a motion for new trial under Rule 37, may be filed.<sup>41</sup> In the case of the latter, the same affidavits as are required in a motion to lift order of default must be attached.<sup>42</sup> If judgment has become final and executory, a defaulted defendant may file a petition for relief from judgment under Rule 38.<sup>43</sup> Still, should the defaulted defendant fail to file a petition for relief, a petition for annulment of judgment on the ground of lack of jurisdiction or extrinsic fraud remains available.<sup>44</sup>

However, jurisprudence, too, has qualified the intent that animates this liberality. As this court stated in *Acanse v. Court of Appeals*:<sup>45</sup>

The issuance of the orders of default should be the exception rather than the rule, to be *allowed only in clear cases of obstinate refusal by the defendant to comply with the orders of the trial court*.<sup>46</sup> (Emphasis supplied)

<sup>40</sup> *Tanhu v. Judge Ramolete*, 160 Phil. 1101, 1126 (1975) [Per J. Barredo, Second Division]:

[A] defaulted defendant is not actually thrown out of court. While in a sense it may be said that by defaulting he leaves himself at the mercy of the court, the rules see to it that any judgment against him must be in accordance with law. The evidence to support the plaintiff's cause is, of course, presented in his absence, but the court is not supposed to admit that which is basically incompetent. Although the defendant would not be in a position to object, elementary justice requires that only legal evidence should be considered against him. If the evidence presented should not be sufficient to justify a judgment for the plaintiff, the complaint must be dismissed. And if an unfavorable judgment should be justifiable, it cannot exceed in amount or be different in kind from what is prayed for in the complaint.

<sup>41</sup> RULES OF CIVIL PROCEDURE, Rule 37, sec. 1:

SEC. 1. *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

- (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
- (b) Newly discovered evidence, which he could not with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

<sup>42</sup> *Philippine Commercial and Industrial Bank v. Ortiz*, 234 Phil. 376, 385–386 (1987) [Per J. Narvasa, First Division].

<sup>43</sup> RULES OF CIVIL PROCEDURE, Rule 38, sec. 1:

SEC. 1. *Petition for relief from judgment, order, or other proceedings.* — When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

<sup>44</sup> RULES OF CIVIL PROCEDURE, Rule 47, secs. 1 and 2:

SEC. 1. *Coverage.* — This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

SEC. 2. *Grounds for annulment.* — The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

<sup>45</sup> 493 Phil. 676 (2005) [Per J. Callejo, Sr., Second Division].

<sup>46</sup> *Id.* at 689, citing *Samartino v. Raon*, 433 Phil. 173, 187 (2002) [Per J. Ynares-Santiago, First Division].

Moreover, this liberality must be tempered with a recognition that, in the first place, it is a defendant who is at fault in failing to timely file an answer.

Rule 9, Section 3(b) gives an *exclusive list of only four (4) grounds that allow for relief from orders of default*. Moreover, these grounds — extrinsic fraud, accident, mistake, and excusable negligence — relate to factors that are extraneous to a defendant, that is, grounds that show that a defendant *was prevented, by reasons beyond his or her influence, from timely filing an answer*.

The recognition that it is the defendant who is at fault and must suffer the consequences of his or her own failure is analogous to the dismissal of an action due to the fault of a plaintiff, as provided by Rule 17, Section 3 of the 1997 Rules of Civil Procedure. Rule 17, Section 3 reads:

**SEC. 3. Dismissal due to fault of plaintiff.** — If for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

Rule 17, Section 3 is qualified by the phrase “for no justifiable cause.” Thus, in cases covered by Rule 17, Section 3, should the failure to comply with court processes be the result of the plaintiff’s own fault, it is but logical that a plaintiff must suffer the consequences of his own heedlessness. Rule 9, Section 3 — on default — applies the same logic to a culpable defendant.

In this case, the Spouses Manuel only have themselves to blame in not properly receiving the summons and copy of the complaint served on them. It has been shown that their claim that service of summons was made on persons other than them deserves no credence. Quite the contrary, it is quite apparent that Sheriff Joselito Sales not only explained the contents of the summons and the complaint but actually told them that they must file their answer in fifteen (15) days. It was petitioner Sandra Manuel who refused to sign and receive the summons and the complaint. This is evidently an act of obstinate refusal to submit to and to comply with court processes. Thus, the Spouses Manuel are not deserving of any leniency.

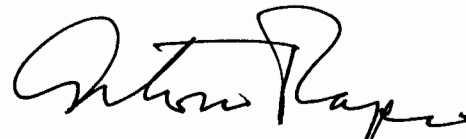
**WHEREFORE**, the petition for review on certiorari is **DENIED**. The June 28, 2012 decision and the December 19, 2012 resolution of the Court of Appeals in CA-G.R. SP No. 119270 are **AFFIRMED**.

**SO ORDERED.**



**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**MARIANO C. DEL CASTILLO**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
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.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**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