Republic of the Philippines
SUPREME COURT
Manila

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

THIRD DIVISION

CARSON REALTY & MANAGEMENT CORPORATION, Petitioner,	**G.R. No. 225035**
	Present:
	VELASCO, JR., *J.*, Chairperson,
	BERSAMIN,
- versus -	REYES,
	JARDELEZA, and
	CAGUIOA,* *JJ.*
RED ROBIN SECURITY AGENCY and MONINA C. SANTOS, Respondents.	Promulgated:
	February 8, 2017

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DECISION

VELASCO, JR., *J.*:

Nature of the Case

This is a petition for review under Rule 45 of the Rules of Court, which seeks to reverse and set aside the August 20, 2015 Decision[1] and June 8, 2016 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 121983.

Factual Antecedents

The facts according to the CA are as follows:

On March 23, 2007, respondent Monina C. Santos (Santos) filed a Complaint for Sum of Money and Damages against petitioner Carson Realty & Management Corp. (Carson) with the Quezon City Regional Trial Court (RTC), Branch 216. As per the Officer's Return dated April 12, 2007 of Process Server Jechonias F. Pajila, Jr. (Process Server Pajila), a copy of the Summons dated April 11, 2007, together with the Complaint and its annexes, was served upon Carson at its business address at Unit 601 Prestige

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* Designated as Fifth Member of the Third Division per Special Order No. 2417 dated January 4, 2017.

[1] *Rollo*, pp. 94-113. Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino.

[2] Id. at 114-115.

Tower Condominium, Emerald Avenue, Ortigas Center, Pasig City, through its "corporate secretary," Precilla S. Serrano.[3]

Thereafter, the appointed Corporate Secretary and legal counsel of Carson, Atty. Tomas Z. Roxas, Jr. (Atty. Roxas), filed an Appearance and Motion dated April 25, 2007 with the court wherein the latter entered his appearance and acknowledged that the Summons was served and received by one of the staff assistants of Carson. Atty. Roxas prayed for an extension of fifteen (15) days from April 27, 2007 within which to file a responsive pleading. The RTC, in its Order dated May 3, 2007, noted the appearance of Atty. Roxas as counsel for Carson and granted his request for extension of time to file a responsive pleading.[4]

Instead of filing a responsive pleading, Atty. Roxas moved to dismiss the complaint, alleging that the Summons dated April 11, 2007 was not served on any of the officers and personnel authorized to receive summons under the Rules of Court.[5]

In her Comment, Santos countered that while the Summons was initially received by Serrano, who as it turned out was a staff assistant and not the corporate secretary of Carson, the corporation acknowledged receipt of the Summons when Atty. Roxas alleged in his Appearance and Motion that he may not be able to comply with the 15-day prescribed period stated in the Summons within which to file a responsive pleading. Thus, when Carson sought for an affirmative relief of a 15-day extension from April 27, 2007 to file its pleading, it already voluntarily submitted itself to the jurisdiction of the RTC.[6]

The RTC denied Carson's Motion to Dismiss and directed the issuance of an alias summons to be served anew upon the corporation. On November 9, 2007, Process Server Pajila submitted his Officer's Report stating in essence that he attempted to serve the alias Summons dated September 24, 2007 on the President and General Manager of Carson, as well as on the Board of Directors and Corporate Secretary, but they were not around. Hence, he was advised by a certain Lorie Fernandez, the "secretary" of the company, to bring the alias Summons to the law office of Atty. Roxas. Process Server Pajila attempted to serve the alias Summons at the law office of Atty. Roxas twice, but to no avail. This prompted him to resort to substituted service of the alias Summons by leaving a copy thereof with a certain Mr. JR Taganila, but the latter also refused to acknowledge receipt of the alias Summons.[7]

Atty. Roxas filed a Manifestation stating that the alias Summons was again improperly and invalidly served as his law office was not empowered

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[3] Id. at 95.
[4] Id. at 96.
[5] Id.
[6] Id. at 96-97.
[7] Id. at 97.

to receive summons on behalf of Carson. In relation thereto, Atty. Roxas maintained that substituted service is not allowed if the party defendant is a corporation. Thus, Atty. Roxas manifested his intention of returning the alias Summons to the RTC.

On December 10, 2007, Santos filed a Motion to Declare Defendant in Default. Finding that there was an improper service of summons on Carson, the RTC denied the motion.

Thereafter, Santos requested the RTC for the issuance of another alias Summons. The RTC granted this request and issued an alias Summons dated September 9, 2008. Process Server Pajila submitted his Officer's Return dated October 28, 2008 on the services of the alias Summons, quoted hereunder in full:

> THIS IS TO CERTIFY that on October 2, 2008 at around 12:51 in the afternoon, when a copy of Alias Summons dated September 9, 2008 issued in the above-entitled case together with a copy of the complaint and annexes attached thereto was brought for service to the President/General Manager of CARSON REALTY & MANAGEMENT CORP., in the person of Marcial M. Samson and/or Nieva A. Cabrera at its office address at Unit 601 Prestige Tower Condominium, Emerald Avenue, Ortigas Center, 1605 Pasig City, undersigned was informed by the secretary of the company in the person of Ms. Vina Azonza that the abovementioned persons were not around and there was no one in the company authorized to receive the aforesaid summons. That the undersigned went back to the said office on October 16, 2008 at around 3:08 in the afternoon and was entered by Ms. Lorie Fernandez, also an employee of the company who is authorized to receive the said process. On October 27, 2008, at around 2:23 in the afternoon, undersigned tried again to serve the same process to the President/General Manager of Carson Realty & Management Corp. but with the same result.
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> Finally, on October 28, 2008 at around 1:03 in the afternoon, the undersigned went back to the said company to personally serve the Alias Summons together with the other pertinent documents, just the same, the President/General Manager of the company was not around, hence, substituted service of summons was resorted to by leaving the copy of the Alias Summons at the company's office through its employee, MS. LORIE FERNANDEZ, however, she refused to acknowledge receipt of the process.

Loreta M. Fernandez (Fernandez), the receptionist who received the September 9, 2008 alias Summons, filed a Manifestation before the RTC signifying her intention of returning the alias Summons, together with the Complaint. Fernandez posited that, as a mere receptionist, she had no authority to receive the said documents and that there was an improper service of summons.

Santos filed a second Motion to Declare Defendant in Default in January 2009. The RTC granted the motion and allowed her to present her evidence *ex-parte* in its Order dated June 29, 2009.[8]

On August 27, 2009, Carson filed an Urgent Motion to Set Aside Order of Default[9] alleging that the RTC has yet to acquire jurisdiction over its person due to improper service of summons. The RTC denied the same in its December 4, 2009 Order.[10]

Carson filed an Urgent Motion for Reconsideration and for Leave of Court to Admit Responsive Pleading on March 17, 2010, appending thereto its Answer with Counterclaims. This was opposed by Santos in her Comment/Opposition. In the meantime, Santos filed an Ex-Parte Motion to Set for Hearing and for Reception of Evidence Before the Branch Clerk of Court.[11] On November 22, 2010, the RTC rendered an Order[12] denying Carson's Urgent Motion for Reconsideration and granting Santos' Ex-Parte Motion to Set Case for Hearing and for Reception of Evidence Before the Branch Clerk.[13]

Carson filed a Motion for Clarification and prayed for the annulment of the Orders dated June 29, 2009, December 4, 2009, and November 22, 2010. The RTC, however, maintained its stance and denied the motion in its Order[14] dated September 9, 2011.

Thus, Carson filed a Petition for Certiorari[15] dated November 9, 2011 under Rule 65 of the Rules of Court with the CA, imputing grave abuse of discretion amounting to lack or excess of jurisdiction to the RTC for issuing the Orders dated June 29, 2009, December 4, 2009, November 22, 2010, and September 9, 2011. Carson essentially questioned the validity of the service of the second alias Summons dated September 9, 2008, received by Fernandez, who is a receptionist assigned at its office in Ortigas.

Ruling of the Court of Appeals

The CA denied the petition and ruled that the RTC had properly acquired jurisdiction over Carson due to its voluntary appearance in court. In ruling thus, the CA considered Carson's act of requesting additional time to file its responsive pleading as voluntary submission to the jurisdiction of the trial court.

Even on the assumption that Carson did not voluntarily submit to the RTC's jurisdiction, the CA maintained that the RTC still acquired

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[8] Id. at 209-211.
[9] Id. at 100.
[10] Id. at 244-246.
[11] Id. at 100.
[12] Id. at 308-312.
[13] Id. at 100.
[14] Id. at 329-330.
[15] Id. at 337-394.

jurisdiction over it due to the substituted service of the alias Summons dated September 9, 2008. The appellate court reasoned that Fernandez is a competent person charged with authority to receive court documents on behalf of the corporation.[16] Consequently, the CA upheld the Order dated June 29, 2009 declaring Carson in default.

Carson moved for reconsideration but was denied by the CA in its Resolution dated June 8, 2016. Hence, this petition.

Carson, in the main, argues that the trial court did not acquire jurisdiction over its person because the summons was not properly served upon its officers as mandated under Section 11,[17] Rule 14 of the Rules of Court. Thus, Carson posits, the RTC improperly declared it in default and should not have allowed Santos to present her evidence *ex-parte*.

Issues

The pertinent issues for the resolution of this Court can be summarized, as follows:

(1) Whether the RTC acquired jurisdiction over Carson.

(2) Whether Carson was properly declared in default.

Our Ruling

The petition is bereft of merit.

In actions *in personam*, such as the present case, the court acquires jurisdiction over the person of the defendant through personal or substituted service of summons. However, because substituted service is in derogation of the usual method of service and personal service of summons is preferred over substituted service, parties do not have unbridled right to resort to substituted service of summons. Before substituted service of summons is resorted to, the parties must: (a) indicate the impossibility of personal service of summons within a reasonable time; (b) specify the efforts exerted to locate the defendant; and (c) state that the summons was served upon a person of sufficient age and discretion who is residing in the address, or who is in charge of the office or regular place of business of the defendant.[18]

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[16] Id. at 108.

[17] SECTION 11. Service upon domestic private juridical entity. – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.

[18] *Prudential Bank v. Magdamit, Jr., et. al.*, G.R. No. 183795, November 12, 2014. (citations omitted)

In relation to the foregoing, *Manotoc v. Court of Appeals*[19] provides an exhaustive discussion on what constitutes valid resort to substituted service of summons:

> (1) Impossibility of Prompt Personal Service
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> The party relying on substituted service or the sheriff must show that defendant cannot be served promptly or there is impossibility of prompt service. Section 8, Rule 14 provides that the plaintiff or the sheriff is given a "reasonable time" to serve the summons to the defendant in person, but no specific time frame is mentioned. "Reasonable time" is defined as "so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party." Under the Rules, the service of summons has no set period.
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> However, when the court, clerk of court, or the plaintiff asks the sheriff to make the return of the summons and the latter submits the return of summons, then the validity of the summons lapses. The plaintiff may then ask for an alias summons if the service of summons has failed. What then is a reasonable time for the sheriff to effect a personal service in order to demonstrate impossibility of prompt service? To the plaintiff, "reasonable time" means no more than seven (7) days since an expeditious processing of a complaint is what a plaintiff wants. To the sheriff, "reasonable time" means 15 to 30 days because at the end of the month, it is a practice for the branch clerk of court to require the sheriff to submit a return of the summons assigned to the sheriff for service. The Sheriff's Return provides data to the Clerk of Court, which the clerk uses in the Monthly Report of Cases to be submitted to the Office of the Court Administrator within the first ten (10) days of the succeeding month. Thus, one month from the issuance of summons can be considered "reasonable time" with regard to personal service on the defendant.
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> Sheriffs are asked to discharge their duties on the service of summons with due care, utmost diligence, and reasonable promptness and speed so as not to prejudice the expeditious dispensation of justice. Thus, they are enjoined to try their best efforts to accomplish personal service on defendant. On the other hand, since the defendant is expected to try to avoid and evade service of summons, the sheriff must be resourceful, persevering, canny, and diligent in serving the process on the defendant. For substituted service of summons to be available, there must be several attempts by the sheriff to personally serve the summons within a reasonable period [of one month] which eventually resulted in failure to prove impossibility of prompt service. "Several attempts" means at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.
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> (2) Specific Details in the Return
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> The sheriff must describe in the Return of Summons the facts and circumstances surrounding the attempted personal service. The efforts made to find the defendant and the reasons behind the failure must be

[19] G.R. No. 130974, August 16, 2006, 499 SCRA 21.

clearly narrated in detail in the Return. The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. The form on Sheriff's Return of Summons on Substituted Service prescribed in the Handbook for Sheriffs published by the Philippine Judicial Academy requires a narration of the efforts made to find the defendant personally and the fact of failure. Supreme Court Administrative Circular No. 5 dated November 9, 1989 requires that "impossibility of prompt service should be shown by stating the efforts made to find the defendant personally and the failure of such efforts," which should be made in the proof of service.

(3) A Person of Suitable Age and Discretion

If the substituted service will be effected at defendant's house or residence, it should be left with a person of "suitable age and discretion then residing therein." A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. "Discretion" is defined as "the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed". Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the "relation of confidence" to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipient's relationship with the defendant is, and whether said person comprehends the significance of the receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.

(4) A Competent Person in Charge

If the substituted service will be done at defendant's office or regular place of business, then it should be served on a competent person in charge of the place. Thus, the person on whom the substituted service will be made must be the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. Again, these details must be contained in the Return.

The substituted service of summons is valid

While Our pronouncement in *Manotoc* has been strictly applied to several succeeding cases, We do not cling to such strictness in instances where the circumstances justify substantial compliance with the

requirements laid down therein. It is the spirit of the procedural rules, not their letter, that governs.[20]

In *Sagana v. Francisco*,[21] the substituted service of summons was questioned for non-compliance with the Rules, since the summons was not allegedly served at defendant's residence or left with any person who was authorized to receive it on behalf of the defendant. We upheld the validity of the substituted service of summons due to the defendant's evident avoidance to receive the summons personally despite the process server's diligent efforts to effect personal service upon him. We explained:

> We do not intend this ruling to overturn jurisprudence to the effect that statutory requirements of substituted service must be followed strictly, faithfully, and fully, and that any substituted service other than that authorized by the Rules is considered ineffective. However, an overly strict application of the Rules is not warranted in this case, as it would clearly frustrate the spirit of the law as well as do injustice to the parties, who have been waiting for almost 15 years for a resolution of this case. We are not heedless of the widespread and flagrant practice whereby defendants actively attempt to frustrate the proper service of summons by refusing to give their names, rebuffing requests to sign for or receive documents, or eluding officers of the court. Of course it is to be expected that defendants try to avoid service of summons, prompting this Court to declare that, "the sheriff must be resourceful, persevering, canny, and diligent in serving the process on the defendant." However, sheriffs are not expected to be sleuths, and cannot be faulted where the defendants themselves engage in deception to thwart the orderly administration of justice.

Similarly, given the circumstances in the case at bench, We find that resort to substituted service was warranted since the impossibility of personal service is clearly apparent.

A perusal of the Officer's Return dated October 28, 2008 detailing the circumstances surrounding the service of the second alias Summons dated September 9, 2008 shows that the foregoing requirements for a valid substituted service of summons were substantially complied with.

Indeed, the Return established the impossibility of personal service to Carson's officers, as shown by the efforts made by Process Server Pajila to serve the September 8, 2008 alias Summons on Carson's President/General Manager. In particular, several attempts to serve the summons on these officers were made on four separate occasions: October 2, 2008, October 16, 2008, October 27, 2008, and October 28, 2008, but to no avail.

On his fourth and final attempt, Process Server Pajila served the summons on Fernandez, Carson's receptionist, due to the unavailability and difficulty to locate the company's corporate officers. The pertinent portion of the Return states:

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[20] *Macasaet v. Co, Jr.*, G.R. No. 156759, June 5, 2013, 697 SCRA 187.
[21] G.R. No.161952, October 2, 2009.

> [S]ubstituted service of summons was resorted to by leaving the copy of the Alias Summons at the company's office through its employee, MS. LORIE FERNANDEZ, however, she refused to acknowledge receipt of the process.

Based on the facts, there was a deliberate plan of Carson's for its officers not to receive the Summons. It is a legal maneuver that is in derogation of the rules on Summons. We cannot tolerate that.

The facts now show that the responsible officers did not intend to receive the alias Summons through substituted service. The Summons is considered validly served.

The RTC acquired jurisdiction over Carson

In any event, even if We concede the invalidity of the substituted service, such is of little significance in view of the fact that the RTC had already acquired jurisdiction over Carson early on due to its voluntary submission to the jurisdiction of the court.

Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint. On the other hand, jurisdiction over the defendants in a civil case is acquired either through the service of summons upon them or through their voluntary appearance in court and their submission to its authority,[22] as provided in Section 20,[23] Rule 14 of the Rules of Court.

On this score, *Philippine Commercial International Bank v. Spouses Dy*[24] instructs that:

> As a general proposition, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. It is by reason of this rule that we have had occasion to declare that the filing of motions to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, is considered voluntary submission to the court's jurisdiction. This, however, is tempered only by the concept of conditional appearance, such that a party who makes a special appearance to challenge, among others, the court's jurisdiction over his person cannot be considered to have submitted to its authority. Prescinding from the foregoing, it is thus clear that:
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> (1) Special appearance operates as an exception to the general rule on voluntary appearance;
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> (2) Accordingly, objections to the jurisdiction of the court over the person of the defendant must be explicitly made, i.e., set forth in an unequivocal manner; and

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[22] *Chu v. Mach Asia Trading Corporation*, G.R. No. 184333, April 1, 2013, citing *Kukan International Corporation v. Reyes*, G.R. No.182729, September 29, 2010, 631 SCRA 596.

[23] Sec. 20. *Voluntary appearance.* – The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person shall not be deemed a voluntary appearance.

[24] G.R. No. 171137, June 5, 2009, 588 SCRA 612.

> (3) Failure to do so constitutes voluntary submission to the jurisdiction of the court, especially in instances where a pleading or motion seeking affirmative relief is filed and submitted to the court for resolution. (underscoring supplied)

We have, time and again, held that the filing of a motion for additional time to file answer is considered voluntary submission to the jurisdiction of the court.[25] If the defendant knowingly does an act inconsistent with the right to object to the lack of personal jurisdiction as to him, like voluntarily appearing in the action, he is deemed to have submitted himself to the jurisdiction of the court.[26] Seeking an affirmative relief is inconsistent with the position that no voluntary appearance had been made, and to ask for such relief, without the proper objection, necessitates submission to the Court's jurisdiction.[27]

Carson voluntarily submitted to the jurisdiction of the RTC when it filed, through Atty. Roxas, the Appearance and Motion dated April 25, 2007 acknowledging Carson's receipt of the Summons dated April 11, 2007 and seeking additional time to file its responsive pleading. As noted by the CA, Carson failed to indicate therein that the Appearance and Motion was being filed by way of a conditional appearance to question the regularity of the service of summons. Thus, by securing the affirmative relief of additional time to file its responsive pleading, Carson effectively voluntarily submitted to the jurisdiction of the RTC.

Carson was properly declared in default

Section 3, Rule 9 of the Rules of Court states when a party may be properly declared in default and the remedy available in such case:

> 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.
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> (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.
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> (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

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[25] *Palma v. Galvez,* G.R. No. 165273, March 10, 2010, 615 SCRA 86, 99; *Hongkong and Shanghai Banking Corporation Limited v. Catalan* and *HSBC International Trustee Limited v. Catalan,* G.R. Nos. 159590 and 159591, October 18, 2004, 440 SCRA 499, 515.

[26] *Macasaet v. Co, Jr.*, supra note 20, citing *La Naval Drug Corporation v. Court of Appeals*, G.R. No. 103200, August 31, 1994, 236 SCRA 78.

[27] *Reicon Realty Builders Corporation v. Diamond Dragon Realty and Management, Inc.*, G.R. No. 204796, February 4, 2015.

> default upon proper 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)

Carson moved to dismiss the complaint instead of submitting a responsive pleading within fifteen (15) days from April 27, 2007 as prayed for in its Appearance and Motion. Clearly, Carson failed to answer within the time allowed for by the RTC. At this point, Carson could have already been validly declared in default. However, believing that it has yet to acquire jurisdiction over Carson, the RTC issued the September 24, 2007 and September 9, 2008 alias Summons. This culminated in the issuance of the assailed June 29, 2009 Order declaring Carson in default on the basis of the substituted service of the September 9, 2008 alias Summons. While Carson filed its Urgent Motion to Lift Order of Default, the CA found that the same failed to comply with the requirement under Sec. 3(b) that the motion be under oath.

It bears noting that the propriety of the default order stems from Carson's failure to file its responsive pleading despite its voluntary submission to the jurisdiction of the trial court reckoned from its filing of the Appearance and Motion, and not due to its failure to file its answer to the September 8, 2008 alias Summons. This conclusion finds support in *Atiko Trans, Inc. and Cheng Lie Navigation Co., Ltd. v. Prudential Guarantee and Assurance, Inc.*,[28] wherein We upheld the trial court's order declaring petitioner Atiko Trans, Inc. (Atiko) in default despite the invalid service of summons upon it. In this case, respondent Prudential Guarantee and Assurance Inc. (Prudential) moved to declare Atiko in default due to the latter's failure to file its responsive pleading despite receipt of the summons. Acting on Prudential's motion, the trial court declared Atiko in default. In affirming the validity of the default order, We took note that the trial court acquired jurisdiction over Atiko due to its voluntary submission to the jurisdiction of the court by filing numerous pleadings seeking affirmative relief, and not on the strength of the invalidly served summons.

In a similar vein, the erroneous basis cited in the June 29, 2009 Order, due to the RTC's mistaken belief that the substituted service vested it with jurisdiction over Carson, does not render the pronouncement invalid in view of the existence of a lawful ground therefor.

WHEREFORE, the petition is **DENIED**. The Decision dated August 20, 2015 and Resolution dated June 8, 2016 of the Court of Appeals in CA-G.R. SP No. 121983 are **AFFIRMED**.

SO ORDERED.

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[28] G.R. No. 167545, August 17, 2011.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
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

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

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Division Clerk of Court
Third Division
FEB 27 2017