

### Title:

Republic of the Philippines vs. Hon. Court of Appeals and Apolinaria Malinao Jomoc

### Facts:

1. **Initial Petition:**

- Apolinaria Malinao Jomoc filed a petition for the declaration of presumptive death of her spouse, Clemente P. Jomoc, who had been absent for nine years.
- The petition aimed to enable her to contract a valid subsequent marriage pursuant to Article 41 of the Family Code.

2. **Trial Court Ruling:**

- The Regional Trial Court (RTC) of Ormoc City, Branch 35, presided over by Judge Fortunito L. Madrona, granted the petition on September 29, 1999, based on the Commissioner's Report.
- The RTC declared Clemente P. Jomoc presumptively dead.

3. **Republic's Appeal:**

- The Republic of the Philippines, through the Office of the Solicitor General (OSG), filed a Notice of Appeal against the RTC's ruling.

4. **Trial Court Disapproval:**

- On November 22, 1999, the RTC disapproved the Notice of Appeal, citing the lack of a record of appeal as required by Section 2(a), Rule 41 of the 1997 Rules of Civil Procedure, considering the case a special proceeding.

5. **Motion for Reconsideration:**

- The OSG filed a Motion for Reconsideration, which was denied by the RTC on January 13, 2000.

6. **Petition for Certiorari:**

- The Republic then filed a Petition for Certiorari with the Court of Appeals (CA), arguing that the petition for the declaration of presumptive death is not a special proceeding.

7. **Court of Appeals Ruling:**

- On May 5, 2004, the CA denied the petition on both procedural and substantive grounds.
- Procedural Grounds: The OSG failed to attach a certified true copy of the assailed RTC Order dated January 13, 2000.
- Substantive Grounds: The CA held that the declaration of presumptive death is a special

proceeding, thus requiring a record on appeal.

8. **Supreme Court Petition:**

- The Republic filed a petition before the Supreme Court challenging the CA decision and arguing that the RTC order should be reviewed without the need for a record on appeal.

**Issues:**

1. **Nature of Petition:**

- Whether a petition for declaration of the presumptive death of a spouse under Article 41 of the Family Code is a special proceeding or an ordinary action.

- This distinction impacts procedural requirements, particularly whether a record on appeal is necessary.

2. **Procedural and Substantive Lapses:**

- Whether the procedural flaws in the Republic's filings were sufficient grounds for dismissal.

- The application of technical rules of procedure in the context of the case.

**Court's Decision:**

1. **Nature of Petition:**

- The Supreme Court ruled that the petition for the declaration of presumptive death under Article 41 of the Family Code is not a special proceeding but a summary judicial proceeding.

- Reference was made to Article 238 of the Family Code, which prescribes summary procedures for specific cases under the Family Code, indicating that such a proceeding does not require a record on appeal.

2. **Impact of the Family Code:**

- The Family Code provision supersedes relevant sections of the Revised Rules of Court concerning special proceedings.

- The necessity of a record on appeal applies to special proceedings as defined in traditional contexts like estate settlement, but Article 41 proceedings are governed by their own summary procedural rules.

3. **Procedural Lapses:**

- The Supreme Court found that the CA should not have dismissed the case purely on procedural grounds, noting that procedural rules should not be applied rigidly where substantial justice is at hand.

4. **Remand to Court of Appeals:**

- The Supreme Court reversed and set aside the CA's decision and remanded the case for appropriate action in light of the discussion, favoring a notice of appeal over a record on appeal for summary proceedings under the Family Code.

**Doctrine:**

- **Summary vs. Special Proceedings:**

- Article 41 of the Family Code mandates summary proceedings for the declaration of presumptive death, distinct from special proceedings under the Revised Rules of Court.  
- Procedural rules must respect the specific requirements established by the Family Code, overriding general classifications in the Civil Code and Rules of Court.

**Class Notes:**

- **Summary Judicial Proceedings:** Certain family law matters, including the declaration of presumptive death under Article 41 of the Family Code, fall under summary judicial proceedings rather than special proceedings.  
- **Article 41 of the Family Code:** Establishes a procedure for declaring a spouse presumptively dead after four years of absence, enabling the non-absent spouse to remarry.  
- **Appeals in Summary Proceedings:** A notice of appeal suffices; no record on appeal is required, emphasizing expeditious process without strict adherence to technical rules.

**Historical Background:**

- **Family Code of the Philippines:** Enacted to provide specific procedures tailored for family law matters, aiming to ensure expedited legal processes in familial issues.  
- **Evolution of Procedural Law:** Reflects the distinct handling of family matters in the judicial system, balancing procedural efficiency with substantive justice.