

**\*\*Title\*\*:** Republic of the Philippines vs. Josephine Ponce-Pilapil, G.R. No. 210580, April 18, 2018

**\*\*Facts\*\*:**

- Josephine Ponce-Pilapil (petitioner) and Agapito S. Pilapil Jr. were married on June 5, 2000, in Mandaue City. Agapito disappeared in November 2000.
- Josephine filed a petition to declare Agapito presumptively dead with the Regional Trial Court, Branch 55 of Mandaue City (RTC).
- The RTC ordered the publication of the petition in a newspaper of general circulation.
- Testimonies presented at the RTC hearing:
  - Josephine stated she had no contact with Agapito since his disappearance, searched for him through his relatives, including his sister-in-law, Lydia.
  - Marites Longakit Toong testified she assisted Josephine by hand-carrying a letter to Lydia in Ormoc City, who also did not know Agapito's whereabouts.
- The RTC declared Agapito presumptively dead under Article 41 of the Family Code and Article 253 of the Civil Code, finding Josephine met the requirements of absence for six years with unknown whereabouts.
- The Republic of the Philippines, through the Office of the Solicitor General (OSG), filed a Petition for Certiorari under Rule 65 with the Court of Appeals (CA).
- The CA dismissed the Petition for Certiorari, stating the trial court acted within its jurisdiction and there was no grave abuse of discretion.

**\*\*Issues\*\*:**

1. Whether the CA erred in affirming the RTC Order that granted Josephine's petition for the declaration of presumptive death of Agapito.
2. Whether Josephine established a well-founded belief that Agapito was dead, as required under Article 41 of the Family Code.

**\*\*Court's Decision\*\*:**

1. **\*\*Jurisdiction and Scope of Certiorari\*\*:**
  - The SC reaffirmed that petitions for certiorari under Rule 65 are confined to addressing the jurisdictional issues and whether there was a grave abuse of discretion by the lower courts.
  - The SC found that the CA correctly determined no grave abuse of discretion by the RTC, which acted within its jurisdiction.

2. **Compliance with Article 41 Requirements**:

- **Absence and Diligent Effort**: The SC scrutinized whether Josephine fulfilled the third requirement of a well-founded belief resulting from diligent and reasonable efforts to locate Agapito.
- **Efforts to Locate**: The SC highlighted that Josephine's efforts were insufficient, consisting mainly of second-hand inquiries and not meeting the required diligent search standards set in Republic v. Orcelino-Villanueva.
- **Reliability and Exhaustiveness**: The SC noted the lack of concrete evidence such as non-presentation of letters, no personal inquiries, and non-seeking police assistance, deeming Josephine's efforts ineffective and passive.

As a result, the SC ruled that mere absence or lack of communication could not be equated to establishing a well-founded belief in Agapito's death.

**Doctrine**:

- Under Article 41 of the Family Code, a spouse seeking to remarry must have a well-founded belief of the absentee's death established through diligent and reasonable efforts.
- Mere disappearance or lack of communication is insufficient; proactive and exhaustive measures are a prerequisite for presuming death, as highlighted in cases like Republic v. Orcelino-Villanueva.

**Class Notes**:

- **Article 41, Family Code**: Key statute requiring four requisites for declaring a spouse presumptively dead to contract a subsequent marriage.
- Absence criteria (four or two years depending on circumstances).
- Desire to remarry.
- Well-founded belief of death through diligent efforts.
- Filing for a summary proceeding for a declaration.
- **Efforts to Locate**: Requires active, well-documented, and multi-faceted attempts such as visiting known addresses, contacting various institutions, and seeking public advisory help.

**Historical Background**:

- The judicial presumption of death under specific circumstances aligns with the Civil Code's protocols for absent persons. It emphasizes the criticality of detailed and thorough search efforts given the implications for remarriage under Philippine law. This case follows a tradition of cautious application of presumptive death to avoid wrongful life assumptions

and ensure accurate judicial processes in the Philippines.