

IN RE: PETITION FOR THE DECLARATION OF NULLITY OF MARRIAGE OF MILADAY PINPIN-DONATO AND LUIS T. DONATO, JR.,

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GALAPATE-LAGUILLES, J:

This is an Appeal assailing the Decision[1] dated July 11, 2011 of the Regional Trial Court (Branch 12) of Sanchez Mira, Cagayan granting the Petition for the Declaration of Nullity of Marriage[2] filed by Miladay Pinpin-Donato, which was docketed as Civil Case No. 3613-S-Cv-10. The fallo of the assailed Decision reads:

IN VIEW OF THE FOREGOING, the Court declares NULL AND VOID AB INITIO due to LACK OF THE REQUISITE MARRIAGE LICENSE, the marriage between petitioner Miladay Pinpin-Donato and respondent Luis T. Donato celebrated on January 15, 2001, in Tuguegarao City, Cagayan.

Furnish a copy each of this Decision to the Office of the Civil Registrar of Tuguegarao City, Cagayan, and the National Statistics Office in Manila, for the information and appropriate action.

IT IS SO DECIDED.[3]

The facts are simple.

Miladay Pinpin-Donato and Luis T. Donato, Jr. exchanged their marital vows before Judge Pablo M. Agustin on January 15, 2001, without securing a marriage license.[4] In lieu thereof, they executed an Affidavit of Cohabitation[5] attesting that they had been living together as husband and wife since 1995, or five years from the time of the celebration of marriage, in order to avail of the exemption from the requirement of a marriage license under Article 34 of the Family Code.

On March 31, 2003, Miladay and Luis begot a son, Kierr Lord Louis P. Donato[6] and, thereafter, their relationship turned sour. The mother and son moved out from the conjugal dwelling and lived separately from Luis.

On October 1, 2010, Miladay filed the instant Petition before the Regional Trial Court (Branch 12) of Sanchez Mira, Cagayan, alleging, in the main, that the allegation in the Affidavit of Cohabitation was false as she and Luis did not live together as husband and wife for five years before the solemnization of their marriage. During trial, Miladay likewise disavowed that she and Luis cohabited from 1995-2001 and testified that she met the latter in 1999 at the provincial Capitol of Cagayan where they both worked.[7] According further to Miladay she had been living with her sisters, Jennifer and Dianalyn, from 1995 to 2000. She also asserted that the sole purpose of the said Affidavit was merely to hasten the solemnization of their marriage because of her fear that she was pregnant at the time.[8] She thus averred that the marriage was void because the same was celebrated without a valid marriage license.

Diana Pinpin Manuel corroborated her sister's testimony. She testified that Miladay was living with her and their eldest sister, Jennifer, from the years 1995-1999 in an apartment in Tuguegarao City. According to Diana, she only met Luis in 1999.[9]

Luis did not participate in the proceedings before the trial court while the Republic was represented by the Office

of the Solicitor General and assisted by the Office of the Provincial Prosecutor of Sanchez Mira, Cagayan.

On July 11, 2011, the trial court rendered the assailed Decision based on the evidence presented by Miladay, ruling that the parties did not live together as husband and wife for five years prior to their marriage on January 15, 2001, hence, they were not exempt from the requisite of securing a valid marriage license. Accordingly, the trial court declared the marriage of Miladay and Luis as void ab initio due to lack of the requisite marriage license.

The Republic moved for reconsideration[10] of the assailed Decision, contending that the trial court's reliance on the biased and self-serving testimonies of Miladay and Diana was misplaced; and that the same could not be sufficient to overturn the validity of the Affidavit of Cohabitation, which is a public instrument. The Republic invoked the Supreme Court's admonition in *So v. Valera*[11] that "if the biased and interested testimony of a witness is deemed sufficient to overcome a public instrument, drawn up with all the formalities prescribed by law, then there will have been established a very dangerous doctrine that would throw the door wide open to fraud."

Miladay opposed[12] the Republic's motion for reconsideration arguing that there were clear and convincing pieces of evidence to prove the falsity of the Affidavit of Cohabitation. She insisted that she was only eighteen (18) years old in 1995, studying in Tuguegarao and living with her two siblings. On the other hand, Luis was still studying at the University of Santo Tomas in Manila and graduated in 1997[13]. She thus contended that it would be physically impossible that both of them were living together as husband and wife for a period of five years from 1995-2001.

On November 29, 2011, the trial court rendered a Resolution[14] sustaining the credibility of Miladay and Diana – that they were in the proper position to verify the facts stated in the Affidavit of Cohabitation. It likewise cited independent pieces of evidence that supported Miladay's claim, to wit:

1. Petitioner's Counsel Jessie B. Usita submitted the transcript of records of respondent Luis Donato Jr. from 1995 to 1997, issued by the University of Santo Tomas (UST) where he graduated with a degree of Bachelor of Arts, major in Philosophy.
2. Petitioner and respondent were married on January 15, 2001, when both were 23 years old. By computation, the start of their supposed continuous and unbroken cohabitation was in January 15, 1996 when they were only 18 years old.
3. In 1996, respondent Donato was a student of UST in Manila while petitioner Pinpin-Donato was enrolled at the Saint Louis College of Tuguegarao, Cagayan.
4. Admitted as judicial notice, being geographic locations, Manila and Tuguegarao are around 500 kilometers apart. To commute this distance by land will take 12 hours, more or less, depending on how hurried or starved the driver is. This tiring and time-consuming travel makes continuous and unbroken cohabitation between petitioner and respondent as husband and wife impossible.
5. It was only in 1999, when the petitioner and the respondent were employees of the provincial government, that they met each other.[15]

Unperturbed, the Republic interposed the instant appeal ascribing to the trial court this lone error, viz:

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR ANNULMENT OF MARRIAGE DESPITE PETITIONER-APPELLEE'S FAILURE TO SHOW BY COMPETENT EVIDENCE THAT SHE AND RESPONDENT FALSIFIED THEIR AFFIDAVIT OF COHABITATION, WHICH HAD EXEMPTED THEM FROM SECURING THE REQUISITE MARRIAGE LICENSE PRIOR TO THEIR MARRIAGE.[16]

The Republic bewails that Miladay's evidence is not sufficient to disprove the authenticity of the Affidavit of

Cohabitation, it being a public document. The Republic further contends that even Luis' school records do not conclusively show physical impossibility of marital cohabitation.

The appeal is bereft of merit.

It is deeply ingrained in Our rules and jurisprudence that a notarial document celebrated with all the legal requisites under the safeguard of a notarial certificate carries the evidentiary weight conferred upon it with respect to its due execution.[17] Although a notarized document partakes the nature of a public document as provided for under Section 19,[18] Rule 132 of the Rules of Court, it is not deemed a prima facie evidence of the facts stated therein[19] unlike the other types of public documents, as the said legal presumption extends only to the facts that gave rise to its execution as well as the date thereof, thus:

Sec. 23. Public documents as evidence. – Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter. (Emphasis Ours)

In *Philippine Trust Company (Also Known as Philtrust Bank) v. Court of Appeals*,[20] the Supreme Court had the occasion to elucidate on the nature of a notarized affidavit as follows:

"Public records made in the performance of a duty by a public officer" include those specified as public documents under Section 19(a), Rule 132 of the Rules of Court and the acknowledgement, affirmation or oath, or jurat portion of public documents under Section 19(c). Hence, under Section 23, notarized documents are merely proof of the fact which gave rise to their execution (e.g., the notarized Answer to Interrogatories in the case at bar is proof that Philtrust had been served with Written Interrogatories), and of the date of the latter (e.g., the notarized Answer to Interrogatories is proof that the same was executed on October 12, 1992, the date stated thereon), but is not prima facie evidence of the facts therein stated. Additionally, under Section 30 of the same Rule, the acknowledgement in notarized documents is prima facie evidence of the execution of the instrument or document involved (e.g., the notarized Answer to Interrogatories is prima facie proof that petitioner executed the same).

The reason for the distinction lies with the respective official duties attending the execution of the different kinds of public instruments. Official duties are disputably presumed to have been regularly performed. As regards affidavits, including Answers to Interrogatories which are required to be sworn to by the person making them, the only portion thereof executed by the person authorized to take oaths is the jurat. The presumption that official duty has been regularly performed therefore applies only to the latter portion, wherein the notary public merely attests that the affidavit was subscribed and sworn to before him or her, on the date mentioned thereon. Thus, even though affidavits are notarized documents, we have ruled that affidavits, being self-serving, must be received with caution. (Emphasis Ours)

Here, it is beyond cavil that the Affidavit of Cohabitation has been duly executed by the parties as admitted by Miladay during trial.[21] The real issue is whether or not Miladay and Luis lived together as husband and wife for five year prior to the date of marriage as stated in the Affidavit of Cohabitation.

The records show the physical impossibility for Miladay and Luis to cohabit for five years before January 15, 2001, the date of their marriage. As aptly observed by the trial court, Miladay was only 18 years old in 1995, was studying in Tuguegarao and living together with her sisters in a scrimp apartment until 2000. On the same period, Luis was studying at the University of Santo Tomas in Manila where he graduated with a degree in Bachelor of Arts in Philosophy in 1997 as shown in his official transcript of records. Also, the testimony of Miladay that she met Luis in 1999 when they were both working in the provincial Capitol of Cagayan, which was corroborated by his sister Diana, remains un rebutted. These un rebutted facts ineluctably disprove the allegation in the Affidavit of

Cohabitation pertaining to the parties' 5-year period of cohabitation which, under the law, must be characterized by exclusivity – meaning no third party was involved at any time and continuity – that is unbroken.[22]

Likewise, We cannot give favorable consideration to the Republic's asseveration that Miladay's and Diana's testimonies are biased and self-serving.

The Supreme Court cautions that “self-serving evidence” should not be taken literally to mean any evidence that serves its proponent’s interest. The term, if used with any legal sense, refers only to acts or declarations made by a party in his own interest at some place and time out of court, and it does not include sworn testimony that he gives as a witness in court because the same is subject to cross-examination by the other party, and therefore, not susceptible to an objection on the ground that it is self-serving.[23] In this case, Miladay was subjected to cross-examination and despite so, she did not waver in her testimony that she and Luis did not cohabit for five years and that they only signed the Affidavit of Cohabitation to expedite their wedding in the fear that she was already pregnant.[24] While We see Miladay's testimonial evidence, to some extent, serves her interest, this alone is not a ground to deprive the same of its probative value, especially because the Republic was unable to offer evidence to disprove its truthfulness. The incisive disquisitions of the Supreme Court in *Heirs of Pedro Clemeña v. Heirs of Irene Bien*[25] is instructive, viz:

At any rate, for all their protestations against the use of Gregorio Clemeña’s testimony, petitioners never once alleged, much less tried to show, that his testimony was inaccurate or untrue. As already observed, petitioners’ objection is founded solely on the mere fact that he, being a plaintiff, was a witness interested in the outcome of the case. Now, it is true that a party’s interest may to some extent affect his credibility as a witness. To insist otherwise would be the height of naiveté. Nonetheless, the Court cannot subscribe to the view, implicit in petitioners’ argument, that a party’s testimony favorable to himself must be disregarded on account solely of his interest in the case. Our justice system will not survive such a rule for obdurate cynicism on the part of a court is just as odious to the administration of justice as utter gullibility. (Emphasis Ours)

All told, We found the essential matter contained in the Affidavit of Cohabitation a falsity and, therefore, a mere scrap of paper. Consequently, Miladay and Luis were not exempt from securing a marriage license under Article 34 of the Family Code.[26] It goes without saying that the wedding of Miladay and Luis was celebrated without a valid marriage license which is one of the formal requisites for its validity, hence, void ab initio. Strict compliance with this stringent requirement is of paramount importance owing to the sanctity of marriage as an inviolable social institution, as explained in *Republic v. Dayot*,[27] thus:

The marriage of Jose and Felisa was entered into without the requisite marriage license or compliance with the stringent requirements of a marriage under exceptional circumstance. The solemnization of a marriage without prior license is a clear violation of the law and would lead or could be used, at least, for the perpetration of fraud against innocent and unwary parties, which was one of the evils that the law sought to prevent by making a prior license a prerequisite for a valid marriage. The protection of marriage as a sacred institution requires not just the defense of a true and genuine union but the exposure of an invalid one as well. To permit a false affidavit to take the place of a marriage license is to allow an abject circumvention of the law. If this Court is to protect the fabric of the institution of marriage, we must be wary of deceptive schemes that violate the legal measures set forth in our laws. (Emphasis Ours)

As a final note, We are struck by Miladay's brazen admission that she and Luis falsified their Affidavit of Cohabitation. Although this matter is beyond the scope of the instant appeal, We could not close Our eyes from the said wanton violation of Our laws on marriage, which constitutes a sacrilege to the concept of marriage as an inviolable social institution. Accordingly, We direct the Department of Justice in coordination with the Office of the Provincial Prosecutor of Sanchez Mira to look into this matter so that whatever wrongdoing that Miladay and Luis had committed, if any, shall not go unpunished.

FOR THE STATED REASONS, We DENY the appeal for lack of merit. The Decision dated July 11, 2011 of the Regional Trial Court (Branch 12), of Sanchez Mira, Cagayan as well as its Resolution dated November 29, 2011, in Civil Case No. 3613-S-Cv-10, are hereby AFFIRMED, without prejudice to the determination of Miladay Pinpin-Donato's and Luis T. Donato, Jr.'s possible criminal culpability as discussed above.

SO ORDERED.

Librea-Leagogo, C.C., Chairperson and Lazaro-Javier, A.C., J.J., concur.

[1] Records, pp. 78-81.

[2] Id., pp. 1-5.

[3] Id., p. 81.

[4] Certificate of Marriage. Id., p. 6.

[5] Id., p. 8.

[6] Id., p. 7.

[7] TSN dated June 2, 2011 (pp. 5-6), id., pp. 53-54.

[8] Ibid.

[9] TSN dated June 15, 2011 (pp. 3-5), id., pp. 68-70.

[10] Id., pp. 82-87.

[11] G.R. No. 150677, June 5, 2009.

[12] Records, pp. 94-98.

[13] Certification dated January 24, 2003, id., p. 99; Official Transcript of Record, id., pp. 100-101.

[14] Id., pp. 102-103.

[15] Ibid.

[16] Rollo, p. 15.

[17] Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals, G.R. No. 125283, February 10, 2006.

[18] Sec. 19. Classes of documents. - For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

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[19] Philippine Trust Company (Also Known as Philtrust Bank) v. Court of Appeals, G.R. No. 150318, November 22, 2010.

[20] Supra.

[21] Direct testimony of Miladay Pinpin-Donato. TSN dated June 2, 2011 (p. 4), records, p. 52.

[22] See Niñal v. Bayadog, 384 Phil 661 (2000).

[23] Heirs of Pedro Clemeña v. Heirs of Irene Bien, G.R. No. 155508, September 11, 2006.

[24] Direct testimony of Miladay Pinpin-Donato. TSN dated June 2, 2011 (p. 9), records, p. 57.

[25] Supra.

[26] Article 34. No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage.

[27] G.R. No. 179474, March 28, 2008.

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