

ELIZABETH LOZANO VICTA-QUE, PETITIONER, VS. HONORABLE JUDGE CARIDAD H. GRECIA-CUERDO, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF PASAY CITY, BRANCH 113, AND MARTINIANO J. QU...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is a Petition for Certiorari filed by Elizabeth Lozano Victa-Que (hereinafter referred to as “petitioner”) which seeks the reversal and setting aside of the Order[1] dated February 14, 2014 (“Assailed Order”) issued by the Regional Trial Court of Pasay City, Branch 113 (hereinafter referred to as “RTC Pasay”), dismissing the Petition for Relief from Judgment filed by petitioner relative to the RTC Pasay Decision[2] dated July 10, 2012 (“Assailed Decision”) in Civil Case No. R-PSY-10-04504-CV.[3] Petitioner's Motion for Reconsideration of the assailed Order was dismissed in an Order[4] dated May 18, 2014.

The relevant facts follow.

On July 10, 2012, RTC Pasay issued the assailed Decision granting the Petition for Declaration of Nullity of Marriage on the ground of psychological incapacity filed by Martiniano J. Que (hereinafter referred to as “private respondent”), the dispositive portion of which reads:

WHEREFORE, the herein Petition is hereby GRANTED, ordering as follows:

- The marriage contracted by Martiniano de Jesus Que and Elizabeth Lozano vda. de Victa on November 12, 1979, in Pasay City is hereby declared null and void ab initio;
- The City Civil Registrar of Pasay City is hereby ordered to cause the cancellation of the entries of the said marriage, from the Book of Marriage, under Registry No. 2008-4069;
- In lieu thereof, to record or register the herein decision, according to law;
- Be it noted, that the common daughter and son of the herein parties are already of legal age.

SO ORDERED.

On December 10, 2012, petitioner filed a Petition for Relief from Judgment[5] (hereinafter referred to as the “Petition for Relief”) before the RTC Pasay. Petitioner alleged that she only came to know of the assailed Decision on October 15, 2012, which explains the fact that her counsel filed his Entry of Appearance only on November 26, 2012. Her petition contained the following allegations:

(1)

The Assailed Decision was secured by Private Respondent through fraud and misrepresentation;

(2)

Private Respondent failed to disclose before RTC Pasay that he had previously filed before the RTC of Pasig City, two (2) Petitions for Annulment of Marriage and before the RTC of Quezon City, one (1) Complaint for Rescission of Registration of Marriages;

(3)

Private Respondent failed to disclose before RTC Pasay that there is a Decree of Divorce dated July 17, 2012 rendered against him by the Eighth Judicial District Court, Family Division, Clark County, Nevada, United States of America (USA);

(4)

Private Respondent violated the principle of res judicata because the previous two (2) petitions and one (1) complaint for annulment of marriage had already been dismissed with finality;

(5)

Private Respondent violated the Decision in the case of *Mallion v. Alcantara*, G.R. No. 141528, October 31, 2006, which postulated that when a petition for annulment of marriage on the ground of bigamous marriage was earlier dismissed, petitioner therein can no longer file another petition for annulment of marriage on the ground of psychological incapacity;

(6)

Private Respondent violated the rule against forum shopping;

(7)

The Decree of Divorce dated July 17, 2012 against Private Respondent has been issued.[6]

On the other hand, private respondent, as summarized in the assailed Order, contended that his failure to state in his petition the three (3) cases he previously filed against petitioner does not constitute fraud and misrepresentation that would cause the nullity of the assailed Decision.[7] The two (2) cases filed before RTC Pasig were already dismissed prior to the filing of the instant case on mere technicality and not on the merits.[8] Private respondent also posited that there is no identity of causes of action and issues between the cases, and the evidence presented in the previous three (3) cases are different from the evidence presented in this case.[9] Private respondent contended that the Decree of Divorce cannot be considered res judicata to this case since the said Decree of Divorce has not yet been judicially recognized in the Philippine Court.[10]

In the assailed Order[11] dated February 14, 2014, RTC Pasay dismissed the Petition for Relief filed by petitioner emphasizing that relief from judgment is a remedy provided by law to any person against whom a decision or order is entered through fraud, accident, mistake or excusable negligence.[12] However, petitioner failed to establish the alleged fraud as contemplated by Rule 38, Section 1 of the Rules of Court, or fraud which must be extrinsic or collateral, that is the kind which prevented the aggrieved party from having a trial or presenting his case to the court or was used to procure the judgment without fair submission of the controversy.[13]

RTC Pasay noted that, in this case, summons was served through publication because petitioner was no longer residing at the given address, in compliance with Section 15, Rule 14 of the Revised Rules of Court and Section 6 of A.M. No. 02-6-02-SC (Rule on Declaration of Absolute Nullity of Void and Annulment of Voidable Marriage).[14] As such, RTC Pasay cannot subscribe to the contention of petitioner that private respondent deliberately failed to furnish her with a copy of the Petition for Declaration of Nullity of Marriage in order that she would not be able to contest it.[15] RTC Pasay also ruled that there was no obligation on the part of private respondent to furnish petitioner's lawyer with a copy of the Petition for Declaration of Nullity of Marriage

because at the time said petition was filed, petitioner's counsel could not have yet been known.[16]

Further, RTC Pasay ruled that even if petitioner was furnished a copy of said petition and she was able to oppose the same on the ground of res judicata, her opposition will not prosper.[17] The two (2) cases filed before RTC Pasig were for Bigamous Marriage and For Lack of Marriage License, while the case filed before RTC Quezon City was for Injunction to enjoin the City Civil Registrar of Pasay and the NSO from causing the late registration of falsified and fictitious marriage contract. On the other hand, the case at bar is for the Declaration of Nullity of Marriage under Article 36, anchored on psychological incapacity. Accordingly, the causes of action and the evidence needed in the previous three (3) cases were different from the cause of action and the evidence presented in the case at bar and the issues involved in the said cases were different from the issue finally resolved in the case at bar. RTC Pasay also noted that the two previous cases before RTC Pasig were all dismissed on technicalities and failed to reach the pre-trial stage. Hence, this is not the judgment that may be considered as one rendered on the merits where the rights and liabilities of the parties are determined.[18]

As regards the contention that private respondent is guilty of fraud when he failed to disclose the Decree of Divorce obtained by petitioner in the State of Nevada, USA, on July 17, 2012, RTC Pasay stressed that since the assailed Decision was issued on July 10, 2012, ahead of the said Decree of Divorce, there can be no fraud on the part of private respondent. Moreover, said Decree of Divorce, at the time, has not been judicially recognized in the Philippines pursuant to the Family Code and cannot, thus, be taken judicial notice of.[19]

Petitioner's Motion for Reconsideration of the assailed Order was resolved in an Order[20] dated May 18, 2014, to wit:

WHEREFORE, the Motion for Reconsideration filed by the Respondent Elizabeth Lozano Victa-Que is hereby DENIED for lack of merit.

SO ORDERED.

Hence, this petition raising the same grounds raised in the Petition for Relief from Judgment filed before RTC Pasay, to wit:

1. The Assailed Decision was secured by Private Respondent through fraud and misrepresentation;
2. Private Respondent failed to disclose before RTC Pasay that he had previously filed two (2) Petitions for Annulment of Marriage before the RTC of Pasig City and one (1) Complaint for Rescission of Registration of Marriages before the RTC of Quezon City;
3. Private Respondent failed to disclose before RTC Pasay that there is a Decree of Divorce dated July 17, 2012 rendered against him by the Eighth Judicial District Court, Family Division, Clark County, Nevada, USA;
4. Private Respondent violated the principle of res judicata because the previous two (2) petitions and one (1) complaint for annulment of marriage had already been dismissed with finality;
5. Private Respondent violated the Decision in the case of *Mallion v. Alcantara*, G.R. No. 141528, October 31, 2006, which postulated that when a petition for annulment of marriage on the ground of bigamous marriage was earlier dismissed, petitioner therein can no longer file another petition for annulment of marriage on the ground of psychological incapacity;
6. Private Respondent violated the rule against forum shopping;
7. The Decree of Divorce dated July 17, 2012 against Private Respondent has been issued.[21]

We resolve to dismiss the instant petition.

Settled is the rule that the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court. Although the Court has absolute discretion to reject and dismiss a petition for certiorari, it does so only (1) when the petition fails to demonstrate grave abuse of discretion by any court, agency, or branch of the government; or (2) when there are procedural errors, like violations of the Rules of Court or Supreme Court Circulars.[22]

Pursuant to Section 1(b) of Rule 41 of the Rules of Court,[23] the denial of a petition for relief from judgment, such as in this case, is subject only to a special civil action for Certiorari under Rule 65.[24] Since certiorari is an extraordinary, prerogative remedy and is never issued as a matter of right, the party who seeks to avail of it must strictly observe the rules laid down by law.[25]

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[26] In the instant case, it is noted that instead of alleging errors of jurisdiction or grave abuse of discretion on the part of RTC Pasay in denying the petition for relief from judgment and issuing the assailed Order, the petition assigns reversible errors in the assailed Decision. Even on this basis alone, the petition should be dismissed.

Moreover, We note the formal defects of the Petition for Certiorari filed by petitioner. First, there is no Certification of Non-Forum Shopping attached to the petition. Section 1, Rule 65[27] of the 1997 Rules of Civil Procedure provides, among others, that the petition must be accompanied by a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.[28] It is settled that the requirement to file a certificate of non-forum shopping is mandatory and that the failure to comply with this requirement cannot be excused.[29] Pursuant to the Rules of Court, failure of petitioner to comply therewith shall be sufficient ground for the dismissal of the petition. Second, the Verification at the end of the petition was signed only by petitioner's counsel without proof on record of his authority to do so. There is nothing on record to show that petitioner executed a special power of attorney authorizing her counsel to file the Petition for Certiorari. Third, the Verification and the Affidavit of Service accompanying the petition are defective in that the Notary Public before whom the documents were subscribed and sworn to failed to indicate his notarial commission number, place of commission and office address, in violation of Section 2,[30] Rule VIII of the 2004 Rules on Notarial Practice.[31] The notarial certificate being deficient, it was as if the notarial acknowledgment was unsigned.[32]

Be that as it may, even if this Court were to delve into the merits of the instant petition, the same must still be denied. A perusal of the Petition for Relief which was dismissed by RTC Pasay discloses that there is no fact constituting fraud, accident, mistake or excusable negligence which are the grounds therefor.

Section 1 of Rule 38 of the Rules of Court provides that 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.[33] Where fraud is the ground, the fraud must be extrinsic or collateral.[34] This refers to some act or conduct of the prevailing party which has prevented the aggrieved party from having a trial or presenting his case to the court, or was used to procure judgment without a fair submission of the controversy. Extrinsic fraud refers to acts outside the trial. It must be distinguished from intrinsic fraud which refers to acts of a party at a trial which prevented a fair and just determination of the case and which could have been litigated and determined at the trial or adjudication of the case.[35]

In this case, the grounds cited by petitioner in her Petition for Relief may be categorized into three main alleged acts of fraud committed by private respondent, namely: (1) failure to serve her a copy of the Petition for Declaration of Nullity of Marriage; (2) failure to disclose the fact that he previously filed three (3) other cases

against petitioner; and (3) failure to disclose the fact that a Decree of Divorce has been obtained by petitioner in Nevada, USA.

To this Court, only the first act imputed to private respondent pertains to acts outside the trial as to qualify as extrinsic fraud. The second act imputed to private respondent, his alleged failure to disclose to RTC Pasay the other cases he previously filed against petitioner, partakes of an intrinsic fraud or an act at the trial which prevented a fair and just determination of the case. Examples of intrinsic fraud are falsification and false testimony.[36] Such is not a ground for relief from judgment. Nonetheless, We take occasion to state that in the assailed Order, RTC Pasay has sufficiently ruled on petitioner's claims that the previous three (3) cases constituted res judicata to the Petition for Declaration of Nullity of Marriage. As to the third act imputed to private respondent, the assailed Decision dated July 10, 2012 was issued before the Decree of Divorce alluded to by petitioner which is dated July 17, 2012. It is, thus, incredulous to fault private respondent for failing to declare a document which has not yet been issued.

Consequently, for purposes of the petition at bar, We will resolve petitioner's allegation that private respondent is guilty of fraud when he made sure she will not be able to know of, and oppose, the Petition for Declaration of Nullity of Marriage by failing and refusing to furnish her a copy thereof. Petitioner posited that private respondent knew that aside from her residential address in Nevada, USA, her Philippine address is through her counsel Atty. Clodualdo C. De Jesus who has been her counsel for the previous cases filed by private respondent involving petitioner.[37]

Dismissing the Petition for Relief, RTC Pasay ruled that petitioner failed to establish that private respondent deliberately failed to furnish her with a copy of the Petition for Declaration of Nullity of Marriage. Records show that service of summons in this case was made thru publication because petitioner could no longer be located and the same is considered sufficient compliance with the Rules.[38] We agree.

On this point, the case of *Romualdez-Licaros vs. Licaros*[39] is instructive, viz.:

Summons is a writ by which the defendant is notified of the action brought against him. Service of such writ is the means by which the court acquires jurisdiction over his person.[40]

As a rule, when the defendant does not reside and is not found in the Philippines, Philippine courts cannot try any case against him because of the impossibility of acquiring jurisdiction over his person unless he voluntarily appears in court. But when the case is one of actions in rem or quasi in rem enumerated in Section 15,[41] Rule 14 of the Rules of Court, Philippine courts have jurisdiction to hear and decide the case. In such instances, Philippine courts have jurisdiction over the res, and jurisdiction over the person of the non-resident defendant is not essential.[42]

Actions in personam[43] and actions in rem or quasi in rem differ in that actions in personam are directed against specific persons and seek personal judgments. On the other hand, actions in rem or quasi in rem are directed against the thing or property or status of a person and seek judgments with respect thereto as against the whole world.[44]

At the time Abelardo filed the petition for nullity of the marriage in 1991, Margarita was residing in the United States. She left the Philippines in 1982 together with her two children. The trial court considered Margarita a non-resident defendant who is not found in the Philippines. Since the petition affects the personal status of the plaintiff, the trial court authorized extraterritorial service of summons under Section 15, Rule 14 of the Rules of Court. The term "personal status" includes family relations, particularly the relations between husband and wife.[45]

Under Section 15 of Rule 14, a defendant who is a non-resident and is not found in the country may be served

with summons by extraterritorial service in four instances: (1) when the action affects the personal status of the plaintiff; (2) when the action relates to, or the subject of which is property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent; (3) when the relief demanded consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; or (4) when the property of the defendant has been attached within the Philippines.

In these instances, extraterritorial service of summons may be effected under any of the three modes: (1) by personal service out of the country, with leave of court; (2) by publication and sending a copy of the summons and order of the court by registered mail to the defendant's last known address, also with leave of court; or (3) by any other means the judge may consider sufficient.

As it stands, We find no grave abuse of discretion on the part of RTC Pasay in holding that the service of summons in the Petition for Declaration of Nullity of Marriage by publication is proper and in compliance with Section 15 of Rule 14 of the Revised Rules of Court and Section 6 of A.M. No. 02-6-02-SC[46] because, as certified in the Server's Return dated October 29, 2010, petitioner "is no longer residing at the given address" and "her present address was unknown." [47]

At this point, it bears to stress the fundamental rule that unless the contrary is proved, official duty is presumed to have been performed regularly and judicial proceedings regularly conducted. This presumption of the regularity of the court proceedings includes presumptions of regularity of service of summons. It is therefore incumbent upon herein petitioner to rebut these presumptions with competent and proper evidence.[48] Here, petitioner did not even allege defective service of summons. She merely claimed that she "was never furnished a copy of said petition in my address known to [Private Respondent], Martiniano J. Que, nor to my Philippine address c/o my lawyer." [49] In the absence of competent evidence other than mere allegation by petitioner, the presumption of regularity of the service of summons by publication in this case will stand.

To reiterate, annulment of marriage is an action in rem, for it concerns the status of the parties. The res is the relation between said parties, or their marriage tie.[50] And where, as in this case, petitioner's whereabouts is unknown as she can no longer be located in her given address, petitioner was placed under the jurisdiction of the court, upon summons by publication.[51] Simply stated, petitioner is constructively notified of the Petition for Declaration of Nullity filed by private respondent through publication.

Indubitably, there exists no extrinsic fraud to justify petitioner's petition for relief from judgment. The extrinsic or collateral fraud that invalidates a final judgment must be such that it prevented a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[52]

In sum, the Court finds no grave abuse on the part of RTC Pasay in dismissing the Petition for Relief from Judgment for lack of merit. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. It exists where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility,[53] and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[54]

WHEREFORE, the instant petition for certiorari is hereby DENIED DUE COURSE and DISMISSED outright.

SO ORDERED.

Zalameda and Diy, JJ., concur.

- [1] Rollo, pp. 154-160.
- [2] Rollo, pp. 21-29.
- [3] Entitled “Martiniano J. Que v. Elizabeth Lozano Victa-Que.”
- [4] Rollo, pp. 179-180.
- [5] Rollo, pp. 30-44.
- [6] Rollo, pp. 31-32.
- [7] Assailed Order of the RTC, p. 2; Rollo, p. 155.
- [8] Assailed Order of the RTC, p. 2; Rollo, p. 155.
- [9] Assailed Order of the RTC, p. 2; Rollo, p. 155.
- [10] Assailed Order of the RTC, p. 2; Rollo, p. 155.
- [11] Rollo, pp. 154-160.
- [12] Rollo, p. 156.
- [13] Rollo, p. 157.
- [14] Rollo, p. 157.
- [15] Rollo, p. 157.
- [16] Rollo, p. 158.
- [17] Rollo, p. 158.
- [18] Rollo, pp. 158-159.
- [19] Rollo, p. 160.
- [20] Rollo, pp. 179-180.
- [21] Rollo, p. 6-7.
- [22] Citing Athena Computers, Inc. and Joselito R. Jimenez vs. Wesnu A. Reyes, G.R. No. 156905, September 5, 2007.
- [23] Section 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
- No appeal may be taken from:
- xxx xxx xxx
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- xxx xxx xxx
- In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.
- [24] Azucena vs. Foreign Manpower Services, G.R. No. 147955, October 25, 2004.

[25] Vda. de Formoso vs. PNB, G.R. No. 154704, June 1, 2011 citing Eagle Ridge Golf & Country Club vs. CA, G.R. No. 178989, March 18, 2010.

[26] Tan vs. Spouses Antazo, G.R. No. 187208, February 12, 2011.

[27] Section 1. Petition for certiorari.—When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

[28] Section 3. Contents and filing of petition; effect of non-compliance with requirements.—The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

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The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

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The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[29] Negros Merchants Enterprises, Inc. vs. China Banking Corporation, G.R. No. 150918, August 17, 2007 citing Expertravel & Tours, Inc. vs. Court of Appeals, G.R. No. 152392, May 26, 2005.

[30] Section 2. Contents of the Concluding Part of the Notarial Certificate.—The notarial certificate shall include the following:

- (a) the name of the notary public as exactly indicated in the commission;
- (b) the serial number of the commission of the notary public;
- (c) the words "Notary Public" and the province or city where the notary public is commissioned, the expiration date of the commission, the office address of the notary public; and
- (d) the roll of attorney's number, the professional tax receipt number and the place and date of issuance thereof,

and the IBP membership number. (Emphasis Ours.)

[31] A.M. No. 02-8-13-SC, August 1, 2004.

[32] Spouses Bautista vs. Silva, G.R. No. 157434, September 19, 2006.

[33] Bang vs. Sy, G.R. No. 179955, April 24, 2009.

[34] Bang vs. Sy, G.R. No. 179955, April 24, 2009 citing Garcia vs. Court of Appeals, G.R. No. 96141, October 2, 1991.

[35] Spouses Ybañez vs. Court of Appeals, G.R. No. 117499, February 9, 1996.

[36] Spouses Ybañez vs. Court of Appeals, G.R. No. 117499, February 9, 1996.

[37] Rollo, p. 11.

[38] Rollo, p. 158.

[39] G.R. No. 150656, April 29, 2003.

[40] Citing Cano-Gutierrez vs. Gutierrez, G.R. No. 138584, October 2, 2000.

[41] Formerly Section 17, to wit: “SEC. 17. Extraterritorial service. – When the defendant does not reside and is not found in the Philippines and the action affects the personal status of the plaintiff or relates to, or the subject of which is property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under section 7; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.” Now Section 15, Rule 14 of the 1997 Rules of Civil Procedure.

[42] Citing Valmonte vs. Court of Appeals, G.R. No. 108538, January 22, 1996.

[43] In an action in personam, personal service of summons or, if this is not possible and he cannot be personally served, substituted service, as provided in Sections 7 and 8 of Rule 14 of the Rules of Court is essential for the acquisition by the court of jurisdiction over the person of a defendant who does not voluntarily submit himself to the authority of the court. If defendant cannot be served with summons because he is temporarily abroad, but otherwise he is a Philippine resident, service of summons may, by leave of court, be made by publication in accordance with Sections 17 and 18 of the same Rule, see Asiavest Limited vs. Court of Appeals, G.R. No. 128803, 25 September 1998, 296 SCRA 538.

[44] Citing Ching vs. Court of Appeals, G.R. No. 59731, January 11, 1990.

[45] Citing Tenchavez vs. Escano, 122 Phil. 752 (1965).

[46] Rule on Declaration of Absolute Nullity of Void and Annulment of Voidable Marriage.

[47] Rollo, p. 157.

[48] Masagana vs. NLRC, G.R. No. 106916, September 3, 1999.

[49] Verification and Affidavit of Merits; Rollo, p. 46.

[50] Rayray vs. Chae Kyung Lee, G.R. No. L-18176, October 26, 1966.

[51] Rayray vs. Chae Kyung Lee, G.R. No. L-18176, October 26, 1966.

[52] Alaban vs. CA, G.R. No. 156021, September 23, 2005 citing Teodoro vs. Court of Appeals, 437 Phil. 336, 345 (2002).

[53] Carabeo vs. CA, G.R. Nos. 178000 and 178003, December 4, 2009.

[54] Sawadjaan vs. CA, G.R. No. 141735, June 8, 2005.

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