

AMANDA DE LA PAZ, PLAINTIFF-APPELLEE, MARIO DE GUZMAN, DEFENDANT-APPELLANT.*G.R. No. L-28147. February 29, 1972*

Ponente: FERNANDO, J.

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If proof were needed about the desirability and wisdom of the latest legislation[1] requiring a petition for certiorari in the event an error of law is imputed to a judgment of a court of first instance, thus leaving it to our discretion whether to grant or deny a review,[2] this case supplies it. Appellant Mario de Guzman, defendant in an action for support pending before the Court of First Instance of Rizal[3] was, in an order of the then Judge, now Justice Lourdes P. San Diego, required to grant support pendente lite. Upon his failure to do so, the plaintiff in such case, appellee Amanda de la Paz, was able to have an order of execution, a motion for the stay thereof likewise proving unavailing. Still adamant in his refusal to abide by such order, an appeal on question of law was taken to this Court on May 3, 1967. While ostensibly invoking a venerable principle[4] from the pen no less than of the illustrious Chief Justice Arellano, the questions raised are at bottom factual. Well has it been said that it is hostile to the concept that the highest Court is to be freed from the bother of passing over trivial matters, especially so if factual, even if through ingenuity of counsel what is essentially a litigation of a trifling sort is dressed up in the sacramental phrases of the law. Thus viewed in its proper setting, this appeal, which would require a re-examination of a conclusion reached by the lower court after satisfying itself of the evidence on record that it was warranted, is clearly devoid of merit. We affirm.

The original order against appellant-defendant, in an action for support filed by appellee Amanda de la Paz, who asserted that she was legally married to him, is worded thus: "Plaintiffs prayer for alimony pendente lite, being well supported by the documentary annexes submitted therefore, is hereby granted. Wherefore, defendant Mario de Guzman is hereby ordered to pay and deliver to plaintiff Amanda de la Paz the sum of P100.00 within the first 5 days of each month, beginning August, 1965." [5] As above noted, appellant could not bring himself to comply with the above order and through a series of procedural moves, was able to interpose further delays. Finally the lower court, in the last order of March 29, 1967, presumably its patience sorely tested by such tactics, finally made it clear that appellant certainly was not entitled to a stay of execution of the original order granting alimony pendente lite. Hence, this appeal, presumably limited to questions of law.

That appellant attempted to do by invoking no less an authority, as mentioned earlier, than the doctrine announced by Chief Justice Arellano in *Yangco vs. Rohde*, a decision rendered in 1902.[6] Unfortunately for his cause, reliance on such an authoritative pronouncement is futile. It does not, as will be presently shown, apply at all. Moreover, while ostensibly seeking a reversal on an alleged violation of the lower court to accord deference to what has been laid down by this Court as binding precedents, the questions he raised are in reality factual. He should have elevated the case to the Court of Appeals then. Failing to do so, he should not have been so sanguine as to expect that his appeal would be crowned with success.

1. Inasmuch as the principal reliance is on the *Yangco vs. Rohde* precedent, erroneously denominated by

appellant as "exactly the point," it would erase all doubts if the opinion of Chief Justice Arellano were allowed to speak for itself. Thus: "In the present case the action for the support or alimony is brought by a woman who alleges that she is a wife; therefore it is necessary for her to prove possession of the civil status of a spouse – that is, a marriage, without which one has no right to the title of husband or wife. Marriages celebrated before the adoption of the Civil Code must be proven by the means established by the former laws (art. 53). 'Marriages celebrated before the operation of the Code,' says Q. Mucius Scaevola, 'must be proven by the canonical certificate.' (Vol. 2, p. 137.) 'Before the Council of Trent,' says Manresa, 'no absolute provision of law required the parish priests to make entries in their books with regard to the birth, marriage, or death of their parishioners * * *. The council required the parish priests to open books in which to record baptisms, marriages, and deaths * * *. The State, the attention of which was called for the first time to the importance of the records established by the provisions of the council, gave evidence of its interest by issuing the royal order of March 21, 1749, according to which the prelates of the Kingdom were directed to require the evidence referred to be kept exclusively in the churches.' "[7] Further: "This evidence being lacking, and the civil status of marriage being in litigation; it is evident it is evident that nothing can be taken for granted upon the point in issue. There is no law or reason which authorizes the granting of alimony to a person who claims to be a spouse in the same manner as to a person who conclusively establishes, by legal proof that he or she is such spouse, and sues for divorce or separation. In this case the legal evidence raises a presumption of law; in the former there is no presumption, there is nothing but a mere allegation - a fact in issue - and a simple fact in issue must not be confounded with an established right recognize by a final judgment or based upon a legal presumption. The civil status of marriage being denied, and this civil status, from which the right to support is derived, being in issue, it is difficult to see how any effect can be given to such a claim until an authoritative declaration has been made as to the existence of the cause. It is evident that there is of necessity a substantial difference between the capacity of a person after the rendition of a final judgment in which that person is declared to be in possession of the status of marriage and his capacity prior to such time when nothing exists other than his suit or claim to be declared in possession of such status of marriage. Any other view would render useless all the legal effects which flow from the authority of *resadjudicata*." [8] Here on the contrary, the appealed order of the then Judge San Diego expressly recited that appellee's "prayer for alimony pendente lite [was] well supported by the documentary annexes [and] is hereby granted."

2. What appears undeniable is that the errors assigned by appellant are clearly factual in character. He would take issue on the sufficiency of the evidence on which the lower court predicated its grant of alimony pendente lite. This, notwithstanding the lower court having satisfied itself as to the existence of the matrimonial relationship. If he wanted a different ruling, he should have taken the matter up with the Court of Appeals. Failing to do that, he could not by an attempt, unsuccessful at that, in impressing legal overtones to the first two errors assigned, sought to be fortified by the invocation of *Yangco vs. Rohde*, remedy such a deficiency, fatal to this pretension. The third alleged error as to whether or not appellee did admit abandonment of the conjugal abode, likewise suffers from the same infirmity. It need not be discussed any further.

There are two recent decisions, reference to which could have precluded the sorry predicament in which appellant now finds himself. From *Corliss vs. Manila Railroad Company*: "In the more traditional terminology, the lower court judgment has in its favor the presumption of correctness. It is entitled to great respect. After all, the lower court had the opportunity of weighing carefully what was testified to and apparently did not neglect it. There is no affront to justice then if its finding be accorded acceptance, subject of course to the contingency of ultimate reversal if error or errors, substantial in character, be shown in the conclusion thus arrived at. It is a fair statement of the governing principle to say that the appellate function is exhausted when there is found to be a rational basis for the result reached by the trial court." [9] Then from *Vda. de Tecson vs. Tecson*: "For one thing, what is

objected to is not any alleged failure to apply the law that is controlling but the lower court's appraisal of the decisive facts. Such an appreciation is primarily for the trial judge, who heard the witnesses testify and who was thus in a much better position to gauge their credibility. Not that the conclusion thus arrived at is to be considered binding. We would be recreant to our appellate task if such be our attitude. We are called upon, however, in the absence of any taint or arbitrariness or bias, to yield to its findings the presumption that they were arrived at with due care and deliberation. A heavy burden is thus placed on the party who would have us disregard them. It must do so in a clear and convincing fashion. Such is not the case here." [10]

WHEREFORE, the order of July 14, 1965 granting alimony pendente lite the subsequent order of July 30, 1965 denying reconsideration of the above order, the order of August 14, 1965 denying the second motion for reconsideration, the order of July 20, 1966 denying the stay of execution, and lastly, the order of March 29, 1967 denying the motion for reconsideration of the above orders are hereby affirmed. With costs against appellant.

Concepcion, C. J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Teehankee, Villamor, and Makasiar, JJ., concur.

Barredo, J., is on official leave.

[1] Rep. Act No. 5440 (1968).

[2] According to Sec. 2, Rep. Act. 5440, amending Sec. 17 of the Judiciary Act of 1948, Rep. Act. 296: "All other cases in which only errors or questions of law are involved: Provided, however, that if, in addition to constitutional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of certiorari: and final awards, judgments, decisions or orders of the Commission on Elections, Court of Tax Appeals, Court of Industrial Relations, the Public Service Commission, and the Workmen's Compensation Commission."

[3] Quezon City, Branch IX.

[4] Yangco vs. Rohde, 1 Phil. 404 (1902).

[5] Record on Appeal, pp. 26-27.

[6] 1 Phil. 404.

[7] Ibid, p. 408.

[8] Ibid, pp. 408-409. As noted in the Brief for Appellee, there was a reiteration on the above ruling in Francisco vs. Zanduetra, 61 Phil. 752 (1935) and Coquia vs. Baltazar, 85 Phil. 265 (1949).

[9] L-21291, March 28, 1969, 27 SCRA 674, 678.

[10] L-26397, June 30, 1969, 28 SCRA 677, 686.

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