

## **EULOGIA BIGORNIA DE CARDENAS, PLAINTIFF AND APPELLEE, VS. LEONCIO CARDENAS AND FLORENCIA RIÑEN, DEFENDANTS AND APPELLANTS.**

*G.R. No. L-8218. December 15, 1955*

Ponente: PADILLA, J.

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### **PADILLA, J.:**

This is an action to annul the marriage entered into by and between Leoncio Cardenas and Florencia Rifien upon the ground that when said marriage was entered into on 19 April 1948, the plaintiff to whom he had been married on 10 July 1927 was still alive.

In their answer the defendants plead that they have no knowledge or information as to the marriage performed by Minister George W. Wright on 10 July 1927 uniting Leoncio Cardenas and Eulogia Bigornia as husband and wife, nor as to the authority of the minister to solemnize the marriage; that Leoncio Cardenas and Eulogia Bigornia lived together for sometime, he believing that he and she had a common home; that the defendant Florencia Eifien married Leoncio Cardenas in the honest belief and conviction that both parties were capable of entering into a valid marriage. Upon these allegations they pray that the complaint be dismissed with costs.

On the date set for the hearing of the case the parties submitted the following stipulation of facts:

Come now the plaintiff and the defendants, duly, assisted by their respective attorneys, in the above-entitled case and to this Honorable Court respectfully submit the following—

#### **STIPULATION OF FACTS**

1. That plaintiff and defendant Leoncio Cardenas were married at Malate, Manila, on July 10, 1927, before Minister George W. Wright, as evidenced by the original marriage contract marked as Exhibit A for the plaintiff.
2. That defendants Leoncio Cardenas and Florencia Riñen were married at Badoc, Ilocos Norte, on April 10, 1948,<sup>1</sup> before Justice of the Peace Vicente R. Campos, as evidenced by a certification issued by the Municipal Treasurer of said municipality and dated July 27, 1951, marked as Exhibit B for the plaintiff;
3. That defendant Leoncio Cardenas admitted in his sworn affidavit dated August 17, 1945, and marked as Exhibit C for the plaintiff that he was legally married to Eulogia Bigornia on July 10, 1927, at Malate, Manila, before Rev. George W. Wright, minister;
4. That the U.S. Veterans Administration found from the records on file in said office that Eulogia Bigornia de Cardenas is the legal wife of Leoneio Cardenas, as evidenced by the letter of Orville A. Bobcock, Chief, Registration Section, Vocational, Rehabilitation and Education Division of said U. S. Veterans Administration, dated March 11, 1952, and marked as Exhibit D for the plaintiff;
5. That there has been no divorce, separation, dissolution or annulment of the marriage between the plaintiff and defendant Leoncio Cardenas up to the present; and

6. That the authorization of Rev. George W. Wright to solemnize marriage does not appear in the, records of the Bureau of Public Libraries, as evidenced by Exhibit 1-A for the defendants; the said minister is no longer at his residence as mentioned in the marriage contract, Exhibit A, as evidenced by the fact that Exhibits 2 and 2-A were returned to sender; and that the office of the Local Civil Registrar of the City of Manila has no record of the marriage license of plaintiff and defendant Leoncio Cardenas, as evidenced by Exhibit 3 of the defendants.

Wherefore, plaintiff and defendants respectfully pray that judgment be rendered based on the above stipulation of facts, without-special pronouncements as to costs.

Parties ask 10 days from today to file their respective memoranda.

Manila, Philippines, October 7, 1952.

(Sgd.) Eulogia Bigornia de Cardenas  
Plaintiff

(Sgd.) Leoncio Cardenas  
Defendant

(Sgd.) Florencia Riñen  
Defendant

(Sgd.) Marcelino N. Sayo  
Counsel for plaintiff  
Suite 302 Calvo Building Escolta, Manila

(Sgd.) Sixto . Brillantes  
Attorney for the Defendants  
R-202 Digna Bldg., Manila

Exhibit "A"

#### MARRIAGE CERTIFICATE

Municipality of Malate, Province of Manila, July 10, 1927.

Husband

Wife

Name .....

Leoncio Cardenas

Eulogia Bigornia

Age.....

32

24

Father .....

Quiterio Cardenas

Dominga Bigornia

Mother .....

Remigia Belo

Maria Tamayo

Consent of.....

.....

.....

Residence.....

Fort McKinley

Bangued, Abra

Birthplace.....

Santa, Ilocos Sur

Bangued, Abra

Nationality .....

Filipino

Filipina

Occupation .....

Scout

Embroidery

Number of former marriages .....

One

None

Was former marriage dissolved by death or divorce, or annulled?.....

Death

None

Blood relationship, if any, existing between contracting parties.....

None

None

I hereby certify that I ascertained, previous to the solemnization of the marriage, the truth of the foregoing statements from the sworn testimony of the parties, and of the witnesses Esteban. Ripan and Inocencia Rosario. I do further certify that Leoncio Cardenas and Eulogia Bigornia above named, at ray home, 11 Calle Wright, in Malate, Province of Manila, were with their mutual consent lawfully joined together in matrimony by me in the presence of Esteban Ripan of 16 H. Basco, and Inocencia Rosario of 16 H. Basco, attesting witnesses. And

do further certify that the parties to this marriage are personally known to me and were satisfactorily identified by the oath of the witnesses, and that upon due inquiry by me made, there appeared to be no lawful impediment to the marriage.

Witness my hand this 10th day of July, 1927.

Contracting Parties:

(Sgd.) Leoncio Cardenas

(Sgd.) Eulogia Bigornia

(Sgd.) George W. Wright

Minister

Witnesses:

(Sgd.) Esteban Ripan

(Sgd.) Inocencia Rosario

Exhibit "B"

To Whom It May Concern :

This is to certify that in the Register of Marriage, Series of 1948, under the custody of the Municipal Treasurer, B&doc, Iloeo Norbe, there appears an entry of marriage, to wit:

Register No..... 42

Name of Husband ..... Leoncio Cardenas

Age ..... 53

Birthplace..... Santa, Ilocos Sur

Nationality ..... Filipino

Occupation..... Phil. Scout

No. of former marriage..... None

Blood relationship ..... None

Name of father ..... Quiterio Cardenas

Nationality ..... Filipino

Name of mother..... Remigia Belo

Nationality..... Filipino

Name of wife..... Florencia Riñen

Age ..... 29

Birthplace..... Barrio 1, Badoc, Ilocos Norte

Nationality..... Filipino

Occupation ..... Mun. Teacher

No. of former marriage..... None

Blood relationship ..... None  
Name of father ..... Laureano Olaycay  
Nationality..... Filipino  
Name of mother..... Juliana Riñen  
Nationality..... Filipino  
Date of marriage..... April 19, 1948  
Place of marriage ..... Justice of the Peace  
Solemnized by..... Atty. Vicente R. Campos  
Title..... Judge  
Remarks: Witnesses..... Romualdo Calaylay  
Feliza L. Tolentino

The above is a true and correct copy from its original and in witness whereof, I hereby sign my name at Badoc, Ilocos Norte, this 27th day of July, 1951.

(Sgd.) F. M. TOLENTINO  
Municipal Treasurer

Upon this stipulation the Court rendered judgment declaring that the marriage between the defendants Leoncio Cardenas and Florencia Riñen entered into on 19 April 1948 is null and void ab initio. Costs were taxed against them. From this judgment the defendants appeal.

The appellants insist on their contention that there is nothing in the stipulation which shows that Minister George W. Wright had authority to solemnize the marriage between Leoncio Cardenas and Eulogia Bigornia; that it does not appear in the stipulation of facts that a marriage license was issued to enable them to marry.

A marriage license as provided for in article 53, paragraph 4, of the new Civil Code and in section 7 of the Marriage Law (Act No. 3613), which took effect on 30 August 1950 and 4 December 1929, respectively, was not required by General Orders No. 68, the law in force on 10 July 1927 when the marriage was entered into by and between Cardenas and Bigornia. The marriage certificate attesting that a marriage ceremony was performed by a minister named George W. Wright gives rise to the presumption that all legal formalities required by law had been complied with and fulfilled. If the minister was not authorized to perform such marriage ceremony it was incumbent upon the defendants to show such lack of authority on the part of the minister.

In disposing of this appeal we did not overlook article 88 of the new Civil Code which provides that "No judgment annulling a marriage shall be promulgated upon a stipulation of facts \* \* \*." This article and article 101 on legal separation of the same Code contemplate the annulment of a marriage or legal separation where the parties might secure the annulment of their marriage or their legal separation by collusion. In this case the possibility of such collusion is remote, because the interest of the two wives are conflicting. Apart from this, the marriage certificates attached to the stipulation of facts are evidence and cannot be deemed to be a stipulation of facts.

The judgment appealed from is affirmed, with costs against the appellants.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Jugo, , Bautista Angelo, Labrador, Concepcion, and Reyes, J. B.

L., JJ., concur.

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