

## REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND ANGELINA M. CASTRO, RESPONDENTS.

*G.R. No. 103047. September 02, 1994*

Ponente: PUNO, J.

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### **PUNO, J.:**

The case at bench originated from a petition filed by private respondent Angelina M. Castro in the Regional Trial Court of Quezon City seeking a judicial declaration of nullity of her marriage to Edwin F. Cardenas.[1] As ground therefor, Castro claims that no marriage license was ever issued to them prior to the solemnization of their marriage.

Despite notice, defendant Edwin F. Cardenas failed to file his answer. Consequently, he was declared in default. Trial proceeded in his absence.

The controlling facts are undisputed:

On June 24, 1970, Angelina M. Castro and Edwin F. Cardenas were married in a civil ceremony performed by Judge Pablo M. Malvar, City Court Judge of Pasay City. The marriage was celebrated without the knowledge of Castro's parents. Defendant Cardenas personally attended to the processing of the documents required for the celebration of the marriage, including the procurement of the marriage license. In fact, the marriage contract itself states that marriage license no. 3196182 was issued in the name of the contracting parties on June 24, 1970 in Pasig, Metro Manila.

The couple did not immediately live together as husband and wife since the marriage was unknown to Castro's parents. Thus, it was only in March 1971, when Castro discovered she was pregnant, that the couple decided to live together. However, their cohabitation lasted only for four (4) months. Thereafter, the couple parted ways. On October 19, 1971, Castro gave birth. The baby was adopted by Castro's brother, with the consent of Cardenas.

The baby is now in the United States. Desiring to follow her daughter, Castro wanted to put in order her marital status before leaving for the States. She thus consulted a lawyer, Atty. Frumencio E. Pulgar, regarding the possible annulment of her marriage. Through her lawyer's efforts, they discovered that there was no marriage license issued to Cardenas prior to the celebration of their marriage.

As proof, Angelina Castro offered in evidence a certification from the Civil Register of Pasig, Metro Manila. It reads:

"February 20, 1987

"TO WHOM IT MAY CONCERN:

This is to certify that the names EDWIN F. CARDENAS and ANGELINA M. CASTRO who were allegedly married in the Pasay City Court on June 21, 1970 under an alleged (s)upportive marriage license no. 3196182 allegedly issued in the municipality on June 20, 1970 cannot be located as said license no. 3196182 does not

appear from our records.

Issued upon request of Mr. Ed Atanacio.

(Sgd) CENONA D. QUINTOS

Senior Civil Registry

Officer"

Castro testified that she did not go to the civil registrar of Pasig on or before June 24, 1970 in order to apply for a license. Neither did she sign any application therefor. She affixed her signature only on the marriage contract on June 24, 1970 in Pasay City.

The trial court denied the petition.[2] It held that the above certification was inadequate to establish the alleged non-issuance of a marriage license prior to the celebration of the marriage between the parties. It ruled that the "inability of the certifying official to locate the marriage license is not conclusive to show that there was no marriage license issued."

Unsatisfied with the decision, Castro appealed to respondent appellate court. She insisted that the certification from the local civil registrar sufficiently established the absence of a marriage license.

As stated earlier, respondent appellate court reversed the Decision of the trial court.[3] It declared the marriage between the contracting parties null and void and directed the Civil Registrar of Pasig to cancel the subject marriage contract.

Hence this petition for review on certiorari.

Petitioner Republic of the Philippines urges that respondent appellate court erred when it ruled that the certification issued by the civil registrar that marriage license no. 3196182 was not in their record adequately proved that no such license was ever issued. Petitioner also faults the respondent court for relying on the self-serving and uncorroborated testimony of private respondent Castro that she had no part in the procurement of the subject marriage license. Petitioner thus insists that the certification and the uncorroborated testimony of private respondent are insufficient to overthrow the legal presumption regarding the validity of a marriage.

Petitioner also points that in declaring the marriage between the parties as null and void, respondent appellate court disregarded the presumption that the solemnizing officer, Judge Pablo M. Malvar, regularly performed his duties when he attested in the marriage contract that marriage license no. 3196182 was duly presented to him before the solemnization of the subject marriage.

The issues, being interrelated, shall be discussed jointly.

The core issue presented by the case at bench is whether or not the documentary and testimonial evidence presented by private respondent are sufficient to establish that no marriage license was issued by the Civil Registrar of Pasig prior to the celebration of the marriage of private respondent to Edwin F. Cardenas.

We affirm the impugned Decision.

At the time the subject marriage was solemnized on June 24, 1970, the law governing marital relations was the New Civil Code. The law[4] provides that no marriage shall be solemnized without a marriage license first issued by a local civil registrar. Being one of the essential requisites of a valid marriage, absence of a license would render the marriage void ab initio.[5]

Petitioner posits that the certification of the local civil registrar of due search and inability to find a record or entry

to the effect that marriage license no. 3196182 was issued to the parties is not adequate to prove its non-issuance.

We hold otherwise. The presentation of such certification in court is sanctioned by Section 29, Rule 132 of the Rules of Court, viz:

"Sec. 29. Proof of lack of record. -- A written statement signed by an officer having custody of an official record or by his deputy, that after diligent search, no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry."

The above Rule authorized the custodian of documents to certify that despite diligent search, a particular document does not exist in his office or that a particular entry of a specified tenor was not to be found in a register. As custodians of public documents, civil registrars are public officers charged with the duty, inter alia, of maintaining a register book where they are required to enter all applications for marriage licenses, including the names of the applicants, the date the marriage license was issued and such other relevant data.[6]

The certification of "due search and inability to find" issued by the civil registrar of Pasig enjoys probative value, he being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license. Unaccompanied by any circumstance of suspicion and pursuant to Section 29, Rule 132 of the Rules of Court, a certificate of "due search and inability to find" sufficiently proved that his office did not issue marriage license no. 3196182 to the contracting parties.

The fact that private respondent Castro offered only her testimony in support of her petition is, in itself, not a ground to deny her petition. The failure to offer any other witness to corroborate her testimony is mainly due to the peculiar circumstances of the case. It will be remembered that the subject marriage was a civil ceremony performed by a judge of a city court. The subject marriage is one of those commonly known as a "secret marriage" -- a legally non-existent phrase but ordinarily used to refer to a civil marriage celebrated without the knowledge of the relatives and/or friends of either or both of the contracting parties. The records show that the marriage between Castro and Cardenas was initially unknown to the parents of the former.

Surely, the fact that only private respondent Castro testified during the trial cannot be held against her. Her husband, Edwin F. Cardenas, was duly served with notice of the proceedings and a copy of the petition. Despite receipt thereof, he chose to ignore the same. For failure to answer, he was properly declared in default. Private respondent cannot be faulted for her husband's lack of interest to participate in the proceedings. There was absolutely no evidence on record to show that there was collusion between private respondent and her husband Cardenas.

It is noteworthy to mention that the finding of the appellate court that the marriage between the contracting parties is null and void for lack of a marriage license does not discount the fact that indeed, a spurious marriage license, purporting to be issued by the civil registrar of Pasig, may have been presented by Cardenas to the solemnizing officer.

In fine, we hold that, under the circumstances of the case, the documentary and testimonial evidence presented by private respondent Castro sufficiently established the absence of the subject marriage license.

IN VIEW WHEREOF, the petition is DENIED there being no showing of any reversible error committed by respondent appellate court.

**SO ORDERED.**

Narvasa, C.J., (Chairman), Padilla, Regalado, and Mendoza, JJ., concur.

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[1] Filed on February 19, 1987 and docketed as Civil Case No. Q-50117.

[2] Decision dated June 30, 1987, issued by Presiding Judge Antonio P. Solano, Quezon City RTC, Branch LXXXVI; Rollo, pp. 46-48.

[3] Sixteenth Division, penned by Mr. Justice Justo P. Torres, with Mr. Justices Ricardo J. Francisco and Consuelo Ynares-Santiago, concurring; Decision dated November 27, 1991, Rollo, pp. 38-42.

[4] Articles 53 (4) and 58, New Civil Code.

[5] Article 80 (3), New Civil Code.

[6] Article 70, New Civil Code.

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