

ROGELIO MARISCAL, PETITIONER, VS. COURT OF APPEALS AND BELLA C. CATALAN, RESPONDENTS.*G.R. No. 123926. July 22, 1999*

Ponente: BELLOSILLO, J.

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The only issue in this petition for review is whether the appellate court erred in setting aside the order of the trial court denying the motion to dismiss on the ground of *litis pendencia*.

The antecedent facts: On 29 March 1993 private respondent Bella C. Catalan filed a complaint against petitioner Rogelio Mariscal before the Regional Trial Court of Iloilo for the annulment of their marriage contracted on 4 April 1988 on the ground that it was void *ab initio* for having been solemnized without a valid marriage license and for being bigamous. She also sought to recover from Mariscal the sum of \$32,000.00 she allegedly sent to him while she was working as a nurse in the United States to buy properties as investment for their future life together. She further asked for P100,000.00 for moral damages, P50,000.00 for exemplary damages, P60,000.00 for attorney's fees, plus P700.00 per appearance and reimbursement of all her expenses of litigation. The case was docketed as Civil Case No. 20983.[1] Previously, Catalan also filed criminal complaints against Mariscal for bigamy and perjury before the Iloilo courts.[2]

Two (2) days later, or on 31 March 1993, Rogelio Mariscal filed his own complaint against Bella C. Catalan before the Regional Trial Court of Digos (Davao del Sur) seeking likewise the annulment of the same marriage on the ground that he was forced to marry her at gunpoint and that they had no valid license. Mariscal likewise prayed for moral damages of P100,000.00, exemplary damages of P20,000.00, attorney's fees of P50,000.00 including P2,000.00 monthly retainer starting 31 March 1993 and another P2,000.00 as court appearance fee, and litigation expenses of P20,000.00. The case was docketed as Civil Case No. 2996.[3]

In view of Civil Case No. 20983 which she earlier instituted in the Regional Trial Court of Iloilo, Catalan moved for the dismissal of Civil Case No. 2996 invoking *litis pendencia*, citing Civil Case No. 20983 pending before the RTC of Iloilo which involved the same parties and the same cause of action. But the RTC of Digos denied the motion to dismiss as well as the subsequent motion for reconsideration of Catalan.[4]

On appeal, the RTC of Digos was reversed by the Court of Appeals in its assailed decision of 17 July 1995 thus -

Both actions filed separately in the two courts by petitioner (respondent Catalan herein) and respondent Mariscal (petitioner herein) are for the annulment of marriage contracted by them. Common to the complaints filed in both cases is the ground that no license to contract marriage was obtained by both parties. That the marriage contracted by respondent Mariscal was bigamous because he had contracted a previous marriage with another woman is another ground alleged by petitioner in her complaint. Certainly the judgment to be rendered in the action first instituted, regardless of which party is successful, will amount to *res judicata* against the second action x x x Petitioner's added claim of \$32,000 against respondent Mariscal in her complaint cannot militate against the fact that the causes of action and reliefs in both cases are identical.

WHEREFORE, the orders complained of x x x are annulled and set aside. Accordingly, respondent Rogelio Mariscal's complaint in Civil Case No. 2996 of the Regional Trial Court, 11th Judicial Region, Branch 19, Digos, Davao del Sur, is DISMISSED on the ground of litis pendencia x x x [5]

His motion for reconsideration having been rejected on 17 January 1996,[6] petitioner Mariscal is now before us submitting that the appellate court erred in ordering the dismissal of Civil Case No. 2996 notwithstanding that the judgment that may be rendered in either Civil Case No. 2996 or Civil Case No. 20983 will not constitute res judicata on the other; for, on the possibility that the RTC of Iloilo dismisses the complaint for annulment, the RTC of Digos can still void the marriage by ruling that Mariscal's consent to the marriage with Catalan was vitiated by force, duress, intimidation and threats.

The petition is devoid of merit. It is not infrequent that this Court is given the opportunity to discuss litis pendencia as ground for the dismissal of an action which has become unnecessary and vexatious. In *Victronics Computers, Inc. v. RTC-Br. 63, Makati*,[7] we said -

It is a rule that for litis pendencia to be invoked as ground for the abatement or dismissal of an action, the concurrence of the following requisites is necessary: (a) identity of parties, or at least such as representing the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and, (c) the identity in the two (2) cases should be such that the judgment that may be rendered in the pending case would, regardless of which party is successful, amount to res judicata in the other.

It is quite evident that the first two (2) requisites are present. The parties involved in Civil Case No. 20983 (RTC-Iloilo) are the very same protagonists in Civil Case No. 2996 (RTC-Digos). The actions in both fora are based on the same set of facts that gave rise to the uniformity of the principal reliefs sought, more particularly, the ultimate dissolution of their marriage.

The third requisite is the bone of contention. Mariscal contends that there can be no res judicata between the two (2) simultaneous civil actions because of the different grounds for the nullification of their marriage respectively invoked by them. According to him, the judgment in one case will not abate the second because the basis for annulment in the former would not have even been traversed or passed upon in the latter. Thus Mariscal pleads -

Indeed, the RTC-Iloilo's refusal to declare the nullity of or annul the marriage would mean only that herein private respondent shall have failed to prove her claims in Civil Case No. 20983 that there was no marriage license and that the petitioner deceitfully failed to disclose a prior marriage. However, the RTC-Iloilo's refusal would not constitute a ruling on whether the petitioner himself had been forced into the marriage through force, duress, intimidation, and threats, since these grounds are pleaded in Civil Case No. 2996 before the RTC-Davao del Sur x x x x

Respondent CA's error, therefore, was essentially its failure to consider the consequences of the various possible judgments that could be rendered by the two trial courts in the two civil cases below. The possible judgments in one of the civil cases below will not necessarily bar the other.[8]

Petitioner Mariscal does not convince. In litis pendencia what is essential is the identity and similarity of the issues under consideration. In his effort to have the case resolved in a different venue, petitioner has resorted to nit-picking and in the process has lost track of the real issue besetting the two (2) actions which is simply the nullification of a marriage contracted by the parties on 4 April 1988. Interestingly, in his answer submitted in Civil Case No. 20983 (RTC-Iloilo), Mariscal prayed -

WHEREFORE x x x x it is prayed x x x that the above-entitled case be dismissed; and/or, in the alternative, that the alleged marriage contracts (Annexes "A" and "B") be declared void from the beginning for having been performed illegally and under force, violence, intimidation, threats and strategy x x x x [9]

By including such prayer in his answer, Mariscal has raised the issue of "force, violence, intimidation, threats and strategy" before the RTC-Iloilo, the very same set forth in the RTC-Digos. Hence, he cannot now deny that the issues as well as arguments raised before the two (2) trial courts are identical. Any decision or ruling promulgated in Civil Case No. 20983 by the RTC of Iloilo will necessarily constitute *res judicata* on Civil Case No. 2996 pending before the RTC of Digos and vice-versa.

More. In addition to specific denials, affirmative and special defenses wherein Mariscal questioned the jurisdiction of the RTC of Iloilo over the nature of the action and that there was pending between the same parties for the same cause Civil Case No. 2996 in the RTC of Digos, he also presented a compulsory counterclaim in his answer. Therein he alleged that by reason of the complaint filed by Catalan in gross and evident bad faith, malice and harassment, he suffered anxiety, wounded feelings, besmirched reputation, mental torture and sleepless nights thus entitling him to moral damages of P1,000,000.00, exemplary damages of P500,000.00 as well as attorney's fees of 35% of the amount of damages and value of the property or money involved but in no case less than P500,000.00, plus initial litigation costs of P30,000.00.[10]

A counterclaim partakes of the nature of a complaint and/or a cause of action against the plaintiff in a case. To interpose a cause of action in a counterclaim and again invoke it in a complaint against the same person or party would be splitting a cause of action not sanctioned by the Rules.[11] Indeed the Court is puzzled no end why Mariscal literally shied away from the RTC of Iloilo where he could have just as well ventilated his affirmative and special defenses and litigated his compulsory counterclaim in that court and thus avoided this duplicity of suits which is the matrix upon which *litis pendencia* is laid.[12]

A supervening development further dramatizes the puerile, if not needless, efforts of Mariscal to derail the action pending before the RTC of Iloilo. In her Rejoinder Bella Catalan informed the Court that on 2 October 1996 the RTC of Iloilo through Judge David A. Alfeche rendered judgment in Civil Case No. 20983 nullifying her marriage to Mariscal on the ground that it was bigamous. Catalan was awarded P100,000.00 as moral damages, P50,000 as exemplary damages and P50,000.00 as attorney's fees. Her claim for reimbursement of US\$32,000.00 was however rejected as the evidence presented in support thereof was considered hearsay.[13] With this turn of events, any subsequent ruling by the RTC of Digos (were it allowed to proceed) which deviates from the ruling of the RTC of Iloilo, a co-equal and coordinate court, could only lead to absurd, if not chaotic, consequences. Indeed, this case underscores the importance of *res judicata* or bar by prior judgment as a stabilizing factor in our judicial system. It forecloses not only matters squarely raised and litigated but all such matters which could have been raised in the litigation but were not.

WHEREFORE, the petition is DENIED. The assailed decision of the Court of Appeals dated 17 July 1995 ordering the dismissal of Civil Case No. 2996 pending before the RTC-Br. 19, Digos, Davao del Sur, as well as the resolution dated 17 January 1996 denying petitioner Rogelio Mariscal's motion for reconsideration, is AFFIRMED. Double costs against petitioner.

SO ORDERED.

Puno, Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Rollo, pp. 108-112.

[2] *Id.*, Rollo, p. 145.

[3] *Id.*, pp. 93-102.

[4] Id., pp. 63-65.

[5] CA decision, pp. 5-6; Rollo, pp. 43-44.

[6] Id., p. 47.

[7] G.R. No. 104019, 25 January 1993, 217 SCRA 517, citing *Del Rosario v. Jacinto*, 15 SCRA 15 [1965]; *Quimpo v. De la Victoria*, 46 SCRA 139 [1972]; *Surigao Development Bank v. Buslon*, 48 SCRA 308 [1972]; *Lamis Enterprises v. Lagamon*, 108 SCRA 740 [1981]; *Drilon v. Guarana*, 149 SCRA 342 [1987]; *Investors' Finance Corp. v. Ebarle*, 163 SCRA 60 [1988]; *Lopez v. Villaruel*, 164 SCRA 616 [1988]; *Vda de Tolentino v. De Guzman*, 172 SCRA 555 [1989]; *Ramos v. Ebarle*, 182 SCRA 245 [1990].

[8] Rollo, pp. 31-32.

[9] Id., p. 152.

[10] Id., pp. 152-153.

[11] *Matela v. Chua Tay*, No. L-16407, 30 May 1962, 5 SCRA 163, 169.

[12] *National Power Corporation v. Court of Appeals*, G.R. Nos. 112702 and 113613, 26 September 1997, 279 SCRA 506, 522.

[13] Rollo, pp. 185 and 187-192.

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