

**TOMASA VDA. DE JACOB, AS SPECIAL ADMINISTRATRIX OF THE
INTESTATE ESTATE OF DECEASED ALFREDO E. JACOB, PETITIONER,
VS. COURT OF APPEALS, PEDRO PILAPIL, THE REGISTER OF DEEDS
FOR ...**

G.R. No. 135216. August 19, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The contents of a document may be proven by competent evidence other than the document itself, provided that the offeror establishes its due execution and its subsequent loss or destruction. Accordingly, the fact of marriage may be shown by extrinsic evidence other than the marriage contract.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the Decision of the Court of Appeals[1] (CA) dated January 15, 1998, and its Resolution dated August 24, 1998, denying petitioner's Motion for Reconsideration.

The dispositive part of the CA Decision reads:

"WHEREFORE, finding no reversible error in the decision appealed from it being more consistent with the facts and the applicable law, the challenged Decision dated 05 April 1994 of the RTC, Br. 30, Tigaon, Camarines Sur is AFFIRMED in toto." [2]

The decretal portion of the trial court Decision[3] is as follows:

"WHEREFORE, premises considered, decision is hereby rendered in favor of [herein Respondent] Pedro Pilapil, and against [herein Petitioner] Tomasa Guison as follows:

a) Declaring Exh. B, the so called 'reconstructed marriage contract' excluded under the best evidence rule, and therefore declaring said Exh. B spurious and non-existent.

b) Declaring Exh. 3 Order dated July 18, 1961, and the signature of the issuing Judge JOSE L. MOYA (Exh. 34) to be genuine.

c) Permanently setting aside and lifting the provisional writ of injunction earlier issued; and

d) To pay attorney's fees of P50,000.

And costs against [herein petitioner.]"

The Facts

The Court of Appeals narrates the facts thus:

"Plaintiff-appellant [petitioner herein] claimed to be the surviving spouse of deceased Dr. Alfredo E. Jacob and was appointed Special Administratrix for the various estates of the deceased by virtue of a reconstructed Marriage Contract between herself and the deceased.

"Defendant-appellee on the other hand, claimed to be the legally-adopted son of Alfredo. In support of his claim, he presented an Order dated 18 July 1961 issued by then Presiding Judge Jose L. Moya, CFI, Camarines Sur, granting the petition for adoption filed by deceased Alfredo in favor of Pedro Pilapil.

"During the proceeding for the settlement of the estate of the deceased Alfredo in Case No. T-46 (entitled "Tomasita vda. de Jacob v. Jose Centenera, et al) herein defendant-appellee Pedro sought to intervene therein claiming his share of the deceased's estate as Alfredo's adopted son and as his sole surviving heir. Pedro questioned the validity of the marriage between appellant Tomasita and his adoptive father Alfredo.

"Appellant Tomasita opposed the Motion for Intervention and filed a complaint for injunction with damages (Civil Case No. T-83) questioning appellee's claim as the legal heir of Alfredo.

"The following issues were raised in the court a quo:

- a) Whether the marriage between the plaintiff-appellant and deceased Alfredo Jacob was valid;
- b) Whether the defendant-appellee is the legally adopted son of deceased Jacob.

"On the first issue, appellant claims that the marriage between her and Alfredo was solemnized by one Msgr. Florencio C. Yllana, CBCP, Intramuros, Manila sometime in 1975. She could not however present the original copy of the Marriage Contract stating that the original document was lost when Msgr. Yllana allegedly gave it to Mr. Jose Centenera for registration. In lieu of the original, Tomasita presented as secondary evidence a reconstructed Marriage Contract issued in 1978.

"During the trial, the court a quo observed the following irregularities in the execution of the reconstructed Marriage Contract, to wit:

- No copy of the Marriage Contract was sent to the local civil registrar by the solemnizing officer thus giving the implication that there was no copy of the marriage contract sent to, nor a record existing in the civil registry of Manila;
- In signing the Marriage Contract, the late Alfredo Jacob merely placed his "thumbmark" on said contract purportedly on 16 September 1975 (date of the marriage). However, on a Sworn Affidavit executed between appellant Tomasita and Alfredo a day before the alleged date of marriage or on 15 September 1975 attesting that both of them lived together as husband and wife for five (5) years, Alfredo [af]fixed his customary signature. Thus the trial court concluded that the "thumbmark" was logically "not genuine". In other words, not of Alfredo Jacob's;
- Contrary to appellant's claim, in his Affidavit stating the circumstances of the loss of the Marriage Contract, the affiant Msgr. Yllana never mentioned that he allegedly "gave the copies of the Marriage Contract to Mr. Jose Centenera for registration". And as admitted by appellant at the trial, Jose Centenera (who allegedly acted as padrino) was not present at the date of the marriage since he was then in Australia. In fact, on the face of the reconstructed Marriage Contract, it was one "Benjamin Molina" who signed on top of the typewritten name of Jose Centenera. This belies the claim that Msgr. Yllana allegedly gave the copies of the Marriage Contract to Mr. Jose Centenera;
- Appellant admitted that there was no record of the purported marriage entered in the book of records in San Agustin Church where the marriage was allegedly solemnized.

"Anent the second issue, appellee presented the Order dated 18 July 1961 in Special Proceedings No. 192 issued by then Presiding Judge Moya granting the petition for adoption filed by deceased Alfredo which declared therein Pedro Pilapil as the legally adopted son of Alfredo.

"Appellant Tomasa however questioned the authenticity of the signature of Judge Moya.

"In an effort to disprove the genuineness and authenticity of Judge Moya's signature in the Order granting the petition for adoption, the deposition of Judge Moya was taken at his residence on 01 October 1990.

"In his deposition, Judge Moya attested that he could no longer remember the facts in judicial proceedings taken about twenty-nine (29) years ago when he was then presiding judge since he was already 79 years old and was suffering from "glaucoma".

"The trial court then consulted two (2) handwriting experts to test the authenticity and genuineness of Judge Moya's signature.

"A handwriting examination was conducted by Binevenido C. Albacea, NBI Document Examiner. Examiner Albacea used thirteen (13) specimen signatures of Judge Moya and compared it with the questioned signature. He pointed out irregularities and "significant fundamental differences in handwriting characteristics/habits existing between the questioned and the 'standard' signature" and concluded that the questioned and the standard signatures "JOSE L. MOYA" were NOT written by one and the same person.

"On the other hand, to prove the genuineness of Judge Moya's signature, appellee presented the comparative findings of the handwriting examination made by a former NBI Chief Document Examiner Atty. Desiderio A. Pagui who examined thirty-two (32) specimen signatures of Judge Moya inclusive of the thirteen (13) signatures examined by Examiner Albacea. In his report, Atty. Pagui noted the existence of significant similarities of unconscious habitual pattern within allowable variation of writing characteristics between the standard and the questioned signatures and concluded that the signature of Judge Moya appearing in the Order dated 18 July 1961 granting the petition for adoption was indeed genuine.

"Confronted with two (2) conflicting reports, the trial court sustained the findings of Atty. Pagui declaring the signature of Judge Moya in the challenged Order as genuine and authentic.

"Based on the evidence presented, the trial court ruled for defendant-appellee sustaining his claim as the legally adopted child and sole heir of deceased Alfredo and declaring the reconstructed Marriage Contract as spurious and non-existent." [4] (citations omitted, emphasis in the original)

Ruling of the Court of Appeals

In affirming the Decision of the trial court, the Court of Appeals ruled in this wise:

"Dealing with the issue of validity of the reconstructed Marriage Contract, Article 6, par. 1 of the Family Code provides that the declaration of the contracting parties that they take each other as husband and wife 'shall be set forth in an instrument signed by the parties as well as by their witnesses and the person solemnizing the marriage.' Accordingly, the primary evidence of a marriage must be an authentic copy of the marriage contract.

"And if the authentic copy could not be produced, Section 3 in relation to Section 5, Rule 130 of the Revised Rules of Court provides:

'Sec. 3. Original document must be produced; exceptions. - When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

(a) When the original has been lost or destroyed, or cannot be produced in court without bad faith on the part of the offeror;

x x x x x x x x

'Sec. 5. When the original document is unavailable. - When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy. Or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.'

"As required by the Rules, before the terms of a transaction in reality may be established by secondary evidence, it is necessary that the due execution of the document and subsequent loss of the original instrument evidencing the transaction be proved. For it is the due execution of the document and subsequent loss that would constitute the foundation for the introduction of secondary evidence to prove the contents of such document.

"In the case at bench, proof of due execution besides the loss of the three (3) copies of the marriage contract has not been shown for the introduction of secondary evidence of the contents of the reconstructed contract. Also, appellant failed to sufficiently establish the circumstances of the loss of the original document.

"With regard to the trial court's finding that the signature of then Judge Moya in the questioned Order granting the petition for adoption in favor of Pedro Pilapil was genuine, suffice it to state that, in the absence of clear and convincing proof to the contrary, the presumption applies that Judge Moya in issuing the order acted in the performance of his regular duties.

"Furthermore, since the signature appearing in the challenged Order was subjected to a rigid examination of two (2) handwriting experts, this negates the possibility of forgery of Judge Moya's signature. The value of the opinion of a handwriting expert depends not upon his mere statement of whether a writing is genuine or false, but upon the assistance he may afford in pointing out distinguishing marks, characteristics, and discrepancies in and between genuine and false specimens of writing of which would ordinarily escape notice or detection from an unpracticed observer. And in the final analysis, the assessment of the credibility of such expert witnesses rests largely in the discretion of the trial court, and the test of qualification is necessarily a relative one, depending upon the subject under investigation and the fitness of the particular witness. Except in extraordinary cases, an appellate court will not reverse on account of a mistake of judgment on the part of the trial court in determining qualifications of this case.

"Jurisprudence is settled that the trial court's findings of fact when ably supported by substantial evidence on record are accorded with great weight and respect by the Court. Thus, upon review, We find that no material facts were overlooked or ignored by the court below which if considered might vary the outcome of this case nor there exist cogent reasons that would warrant reversal of the findings below. Factual findings of the trial court are entitled to great weight and respect on appeal especially when established by un rebutted testimony and documentary evidence." [5] (citations omitted, emphasis in the original)

Disagreeing with the above, petitioner lodged her Petition for Review before this Court.[6]

The Issues

In her Memorandum, petitioner presents the following issues for the resolution of this Court:

"a) Whether or not the marriage between the plaintiff Tomasa Vda. De Jacob and deceased Alfredo E. Jacob was valid; and

b) Whether defendant Pedro Pilapil is the legally adopted son of Alfredo E. Jacob." [7]

The Court's Ruling

The Petition is meritorious. Petitioner's marriage is valid, but respondent's adoption has not been sufficiently established.

First Issue:

Validity of Marriage

Doctrinally, a void marriage may be subjected to collateral attack, while a voidable one may be assailed only in a direct proceeding.[8] Aware of this fundamental distinction, Respondent Pilapil contends that the marriage between Dr. Alfredo Jacob and petitioner was void ab initio, because there was neither a marriage license nor a marriage ceremony.[9] We cannot sustain this contention.

To start with, Respondent Pedro Pilapil argues that the marriage was void because the parties had no marriage license. This argument is misplaced, because it has been established that Dr. Jacob and petitioner lived together as husband and wife for at least five years.[10] An affidavit to this effect was executed by Dr. Jacob and petitioner.[11] Clearly then, the marriage was exceptional in character and did not require a marriage license under Article 76 of the Civil Code.[12] The Civil Code governs this case, because the questioned marriage and the assailed adoption took place prior the effectivity of the Family Code.

When Is Secondary

Evidence Allowed?

"It is settled that if the original writing has been lost or destroyed or cannot be produced in court, upon proof of its execution and loss or destruction, or unavailability, its contents may be proved by a copy or a recital of its contents in some authentic document, or by recollection of witnesses." [13] Upon a showing that the document was duly executed and subsequently lost, without any bad faith on the part of the offeror, secondary evidence may be adduced to prove its contents.[14]

The trial court and the Court of Appeals committed reversible error when they (1) excluded the testimonies of petitioner, Adela Pilapil and Msgr. Florencio Yllana and (2) disregarded the following: (a) photographs of the wedding ceremony; (b) documentary evidence, such as the letter of Monsignor Yllana stating that he had solemnized the marriage between Dr. Jacob and petitioner, informed the Archbishop of Manila that the wedding had not been recorded in the Book of Marriages, and at the same time requested the list of parties to the marriage; (c) the subsequent authorization issued by the Archbishop -- through his vicar general and chancellor, Msgr. Benjamin L. Marino -- ordaining that the union between Dr. Jacob and petitioner be reflected through a corresponding entry in the Book of Marriages; and (d) the Affidavit of Monsignor Yllana stating the circumstances of the loss of the marriage certificate.

It should be stressed that the due execution and the loss of the marriage contract, both constituting the *conditio sine qua non* for the introduction of secondary evidence of its contents, were shown by the very evidence they have disregarded. They have thus confused the evidence to show due execution and loss as "secondary" evidence of the marriage. In *Hernaez v. Mcgrath*, [15] the Court clarified this misconception thus:

"x x x [T]he court below was entirely mistaken in holding that parol evidence of the execution of the instrument was barred. The court confounded the execution and the contents of the document. It is the contents, x x x which may not be prove[n] by secondary evidence when the instrument itself is accessible. Proofs of the execution are not dependent on the existence or non-existence of the document, and, as a matter of fact, such proofs precede proofs of the contents: due execution, besides the loss, has to be shown as foundation for the introduction of secondary evidence of the contents.

x x x x x x x x

"Evidence of the execution of a document is, in the last analysis, necessarily collateral or primary. It generally consists of parol testimony or extrinsic papers. Even when the document is actually produced, its authenticity is not necessarily, if at all, determined from its face or recital of its contents but by parol evidence. At the most,

failure to produce the document, when available, to establish its execution may affect the weight of the evidence presented but not the admissibility of such evidence." (emphasis ours)

The Court of Appeals, as well as the trial court, tried to justify its stand on this issue by relying on *Lim Tanhu v. Ramolete*.^[16] But even there, we said that "marriage may be prove[n] by other competent evidence."^[17]

Truly, the execution of a document may be proven by the parties themselves, by the swearing officer, by witnesses who saw and recognized the signatures of the parties; or even by those to whom the parties have previously narrated the execution thereof.^[18] The Court has also held that "[t]he loss may be shown by any person who [knows] the fact of its loss, or by any one who ha[s] made, in the judgment of the court, a sufficient examination in the place or places where the document or papers of similar character are usually kept by the person in whose custody the document lost was, and has been unable to find it; or who has made any other investigation which is sufficient to satisfy the court that the instrument [has] indeed [been] lost."^[19]

In the present case, due execution was established by the testimonies of Adela Pilapil, who was present during the marriage ceremony, and of petitioner herself as a party to the event. The subsequent loss was shown by the testimony and the affidavit of the officiating priest, Monsignor Yllana, as well as by petitioner's own declaration in court. These are relevant, competent and admissible evidence. Since the due execution and the loss of the marriage contract were clearly shown by the evidence presented, secondary evidence -- testimonial and documentary -- may be admitted to prove the fact of marriage.

The trial court pointed out that on the face of the reconstructed marriage contract were certain irregularities suggesting that it had fraudulently been obtained.^[20] Even if we were to agree with the trial court and to disregard the reconstructed marriage contract, we must emphasize that this certificate is not the only proof of the union between Dr. Jacob and petitioner.

Proof of Marriage

As early as *Pugeda v. Trias*^[21], we have held that marriage may be proven by any competent and relevant evidence. In that case, we said:

"Testimony by one of the parties to the marriage, or by one of the witnesses to the marriage, has been held to be admissible to prove the fact of marriage. The person who officiated at the solemnization is also competent to testify as an eyewitness to the fact of marriage."^[22] (emphasis supplied)

In *Balogbog v. CA*,^[23] we similarly held:

"[A]lthough a marriage contract is considered primary evidence of marriage, the failure to present it is not proof that no marriage took place. Other evidence may be presented to prove marriage." (emphasis supplied, footnote omitted)

In both cases, we allowed testimonial evidence to prove the fact of marriage. We reiterated this principle in *Trinidad v. CA*,^[24] in which, because of the destruction of the marriage contract, we accepted testimonial evidence in its place.^[25]

Respondent Pedro Pilapil misplaces emphasis on the absence of an entry pertaining to 1975 in the Books of Marriage of the Local Civil Registrar of Manila and in the National Census and Statistics Office (NCSO).^[26] He finds it quite "bizarre" for petitioner to have waited three years before registering their marriage.^[27] On both counts, he proceeds from the wrong premise. In the first place, failure to send a copy of a marriage certificate for record purposes does not invalidate the marriage.^[28] In the second place, it was not the petitioner's duty to send a copy of the marriage certificate to the civil registrar. Instead, this charge fell upon the solemnizing officer.^[29]

Presumption in Favor of Marriage

Likewise, we have held:

"The basis of human society throughout the civilized world is xxx of marriage. Marriage in this jurisdiction is not only a civil contract, but it is a new relation, an institution in the maintenance of which the public is deeply interested. Consequently, every intendment of the law leans toward legalizing matrimony. Persons dwelling together in apparent matrimony are presumed, in the absence of any counterpresumption or evidence special to the case, to be in fact married. The reason is that such is the common order of society, and if the parties were not what they thus hold themselves out as being, they would be living in the constant violation of decency and of law. A presumption established by our Code of Civil Procedure is `that a man and woman deporting themselves as husband and wife have entered into a lawful contract of marriage.' Semper praesumitur pro matrimonio -- Always presume marriage." [30] (emphasis supplied)

This jurisprudential attitude [31], 1984; *Perido v. Perido*, 63 SCRA 97, March 12, 1975.³¹ towards marriage is based on the prima facie presumption that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage. [32] Given the undisputed, even accepted, [33] fact that Dr. Jacob and petitioner lived together as husband and wife, [34] we find that the presumption of marriage was not rebutted in this case.

Second Issue:

Validity of Adoption Order

In ruling that Respondent Pedro Pilapil was adopted by Dr. Jacob and that the signature of Judge Moya appearing on the Adoption Order was valid, the Court of Appeals relied on the presumption that the judge had acted in the regular performance of his duties. The appellate court also gave credence to the testimony of respondent's handwriting expert, for "the assessment of the credibility of such expert witness rests largely on the discretion of the trial court x x x." [35]

We disagree. As a rule, the factual findings of the trial court are accorded great weight and respect by appellate courts, because it had the opportunity to observe the demeanor of witnesses and to note telltale signs indicating the truth or the falsity of a testimony. The rule, however, is not applicable to the present case, because it was Judge Augusto O. Cledera, not the ponente, who heard the testimonies of the two expert witnesses. Thus, the Court examined the records and found that the Court of Appeals and the trial court "failed to notice certain relevant facts which, if properly considered, will justify a different conclusion." [36] Hence, the present case is an exception to the general rule that only questions of law may be reviewed in petitions under Rule 45. [37]

Central to the present question is the authenticity of Judge Moya's signature on the questioned Order of Adoption. To enlighten the trial court on this matter, two expert witnesses were presented, one for petitioner and one for Respondent Pilapil. The trial court relied mainly on respondent's expert and brushed aside the Deposition of Judge Moya himself. [38] Respondent Pilapil justifies the trial judge's action by arguing that the Deposition was ambiguous. He contends that Judge Moya could not remember whether the signature on the Order was his and cites the following portion as proof: [39]

"Q.

What was your response, sir?

A.

I said I do not remember."

Respondent Pilapil's argument is misleading, because it took the judge's testimony out of its context. Considered with the rest of the Deposition, Judge Moya's statements contained no ambiguity. He was clear when he answered the queries in the following manner:

"Atty. Benito P. Fabie

Q. What else did she tell you[?]

A. And she ask[ed] me if I remembered having issued the order.

Q.

What was your response sir[?]

A. I said I do not remember."[40]

The answer "I do not remember" did not suggest that Judge Moya was unsure of what he was declaring. In fact, he was emphatic and categorical in the subsequent exchanges during the Deposition:

"Atty. Benito P. Fabie

Q.

I am showing to you this Order, Exh. 'A' deposition[;] will you please recall whether you issued this Order and whether the facsimile of the signature appearing thereon is your signature.

A.

As I said, I do not remember having issued such an order and the signature reading Jose[;] I can't make out clearly what comes after the name[;] Jose Moya is not my signature."[41]

Clearly, Judge Moya could not recall having ever issued the Order of Adoption. More importantly, when shown the signature over his name, he positively declared that it was not his.

The fact that he had glaucoma when his Deposition was taken does not discredit his statements. At the time, he could with medication still read the newspapers; upon the request of the defense counsel, he even read a document shown to him.[42] Indeed, we find no reason - and the respondent has not presented any - to disregard the Deposition of Judge Moya.

Judge Moya's declaration was supported by the expert testimony of NBI Document Examiner Bienvenido Albacea, who declared:

"Atty. Paraiso

Q And were you able to determine [w]hat purpose you had in your examination of this document?

A

Yes sir, [based on] my conclusion, [I] stated that the questioned and the standard signature Jose L. Moya were not written by one and the same person. On the basis of my findings that I would point out in detail, the difference in the writing characteristics [was] in the structural pattern of letters which is very apparent as shown in the photograph as the capital letter 'J'. "[43]

It is noteworthy that Mr. Albacea is a disinterested party, his services having been sought without any compensation. Moreover, his competence was recognized even by Respondent Pilapil's expert witness, Atty. Desiderio Pagui.[44]

Other considerations also cast doubt on the claim of respondent. The alleged Order was purportedly made in open court. In his Deposition, however, Judge Moya declared that he did not dictate decisions in adoption cases. The only decisions he made in open court were criminal cases, in which the accused pleaded guilty.[45] Moreover, Judge Moya insisted that the branch where he was assigned was always indicated in his decisions and orders; yet the questioned Order did not contain this information. Furthermore, Pilapil's conduct gave no indication that he recognized his own alleged adoption, as shown by the documents that he signed and other acts that he performed thereafter.[46] In the same vein, no proof was presented that Dr. Jacob had treated him as an adopted child. Likewise, both the Bureau of Records Management[47] in Manila and the Office of the Local Civil Registrar of Tigaon, Camarines Sur,[48] issued Certifications that there was no record that Pedro Pilapil had been adopted by Dr. Jacob. Taken together, these circumstances inexorably negate the alleged adoption of respondent.[49]

The burden of proof in establishing adoption is upon the person claiming such relationship.[50] This Respondent Pilapil failed to do. Moreover, the evidence presented by petitioner shows that the alleged adoption is a sham.

WHEREFORE, the Petition is GRANTED and the assailed Decision of the Court of Appeals is REVERSED and SET ASIDE. The marriage between Petitioner Tomas Vda. de Jacob and the deceased Alfredo E. Jacob is hereby recognized and declared VALID and the claimed adoption of Respondent Pedro Pilapil is DECLARED NONEXISTENT. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Sixth Division composed of J. Jesus M. Elbinias (chairman), J. Omar U. Amin (ponente), and J. Hector L. Hofileña.

[2] CA Decision, p. 10; rollo, p. 59.

[3] Penned by Judge Angel S. Malaya. The case was heard by several judges; namely, Judges Alfredo A. Cabral, Nilo A. Malanyaon, Ceferino P. Barcinas, Bonifacio C. Initia, and Augusto O. Cledera.³

[4] CA Decision, pp. 3-7; rollo, pp. 52-56.

[5] CA Decision, pp. 7-9; rollo, pp. 56-58.

[6] This case was deemed submitted for resolution on June 8, 1999, upon receipt by the Court of respondent's Memorandum.

[7] Memorandum for Petitioner, p. 11; rollo, p. 83.

[8] Tolentino, Civil Code of the Philippines: Commentaries and Jurisprudence, Vol. I, 1987 ed., p. 265.

[9] Respondents' Memorandum, p. 8; rollo, p. 120.

[10] See note 34, *infra*.

[11] See CA Decision, p. 5; rollo, p. 54.

[12] Art. 76 of the Civil Code provides:

"No marriage license shall be necessary when a man and a woman who have attained the age of majority and who, being unmarried, have lived together as husband and wife for at least five years, desire to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oath. The official, priest or minister who solemnized the marriage shall also state in an affidavit that he took steps to ascertain the ages and other qualifications of the contracting parties and that he found no legal impediment to the marriage."

[13] *De Guzman v. CA*, 260 SCRA 389, 395, August 7, 1996, per Mendoza, J. See Rule 130, § 5, Rules of Court.

[14] See *De Vera v. Aguilar*, 218 SCRA 602, February 9, 1993.

[15] 91 Phil. 565, 573, July 9, 1952, per Tuason, J.

[16] 66 SCRA 425, August 29, 1975.

[17] *Ibid.*, p. 469, per Barredo, J.

[18] *De Vera v. Aguilar*, *supra*, pp. 606-607, citing *Michael & Co v. Enriquez*, 33 Phil. 87, 89-90, December 24, 1915. See also *De Guzman v. CA*, *supra*.

[19] *Ibid.*, p. 607, citing *Michael & Co v. Enriquez*, *supra*. (emphasis ours)

[20] CA Decision, pp. 4-5; rollo, pp. 53-54.

[21] 4 SCRA 849, 855, March 31, 1962, per Labrador, J.

[22] *Ibid.*, citing 55 CJS, p. 900.

[23] 269 SCRA 259, 266, March 7, 1997; per Mendoza, J.

[24] 289 SCRA 188, April 20, 1998.

[25] *Ibid.*, p. 204, per Panganiban, J.

[26] Respondent's Memorandum, p. 8; rollo, p. 120.

[27] Respondent's Memorandum, p. 10; rollo, p. 122.

[28] See *Madridejo v. De Leon*, 55 Phil. 1, 3, October 6, 1930; cited in *Jones v. Hortigüela*, 64 Phil. 179, 184, March 6, 1937. Article 53 of the New Civil Code. Cf. *Petition*, p. 22; rollo, p. 29.

[29] Article 68, Civil Code.

[30] *Perido v. Perido*, 63 SCRA 97, 103, March 12, 1975, per Makalintal, CJ, citing *Adong v. Cheong Seng Gee*, 43 Phil. 43, 56, March 3, 1922.

[31] See *Trinidad v. CA*, *supra*; *Balogbog v. CA*, *supra*; *People v. Borromeo*, 133 SCRA 110, October

- [32] Section 3 (aa), Rule 131, Rules of Court. Cf. Section 5 (bb), Rule 131, 1964 Rules of Court and Article 220 of the Civil Code.
- [33] Respondent's Memorandum, p. 12; rollo, p. 124.
- [34] This is evidenced by the "Affidavit of Marriage Between a Man and Woman Who Have Lived for at Least Five Years," the authenticity of which was not questioned by respondent.
- [35] CA Decision, p. 9; rollo, p. 58.
- [36] *Fuentes v. Court of Appeals*, 268 SCRA 703, February 26, 1997, per Panganiban, J.
- [37] *Alcantara v. Court of Appeals*, 252 SCRA 353, January 25, 1996; *Cayabyab v. IAC*, 232 SCRA 1, April 18, 1994.
- [38] See RTC Decision, p. 11; Records, Vol. III, p. 1,506.
- [39] Respondent's Memorandum, pp. 13-14; rollo, pp. 125-126.
- [40] Deposition of Judge Jose L. Moya, p. 2, October 1, 1990; Records, Vol. 3, p. 1,128.
- [41] *Ibid.* (Emphasis supplied)
- [42] *Ibid.*, p. 4; Records, Vol. 3, p. 1,130.
- [43] TSN, p. 9, May 3, 1991; Records, p. 1,266, vol. 3.
- [44] TSN, p. 7, December 8, 1992; Records, Vol. 3, p. 1,422.
- [45] Deposition of Judge Jose L. Moya, p. 4; Records, Vol. 3, p. 1,130.
- [46] Petitioner's Memorandum, pp. 31-36; rollo, pp. 103-108.
- [47] Records, Vol. I, p. 40.
- [48] Records, Vol. I, p. 41.
- [49] *Eusebio v. Valmores*, 97 Phil. 163, May 31, 1955.
- [50] *Lazatin v. Campos*, 92 SCRA 250, July 30, 1979.

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