

OSCAR P. MALLION, PETITIONER, VS. EDITHA ALCANTARA, RESPONDENT.

G.R. NO. 141528. October 31, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court raising a question of law: Does a previous final judgment denying a petition for declaration of nullity on the ground of psychological incapacity bar a subsequent petition for declaration of nullity on the ground of lack of marriage license?

The facts are not disputed:

On October 24, 1995, petitioner Oscar P. Mallion filed a petition[1] with the Regional Trial Court (RTC), Branch 29, of San Pablo City seeking a declaration of nullity of his marriage to respondent Editha Alcantara under Article 36 of Executive Order No. 209, as amended, otherwise known as the Family Code, citing respondent's alleged psychological incapacity. The case was docketed as Civil Case No. SP 4341-95. After trial on the merits, the RTC denied the petition in a decision[2] dated November 11, 1997 upon the finding that petitioner "failed to adduce preponderant evidence to warrant the grant of the relief he is seeking." [3] The appeal filed with the Court of Appeals was likewise dismissed in a resolution[4] dated June 11, 1998 for failure of petitioner to pay the docket and other lawful fees within the reglementary period.

After the decision in Civil Case No. SP 4341-95 attained finality, petitioner filed on July 12, 1999 another petition[5] for declaration of nullity of marriage with the RTC of San Pablo City, this time alleging that his marriage with respondent was null and void due to the fact that it was celebrated without a valid marriage license. For her part, respondent filed an answer with a motion to dismiss[6] dated August 13, 1999, praying for the dismissal of the petition on the ground of res judicata and forum shopping.

In an order[7] dated October 8, 1999, the RTC granted respondent's motion to dismiss, the dispositive portion of which reads:

WHEREFORE, for Forum Shopping and Multiplicity of Suits, the Motion to Dismiss is GRANTED. This case is DISMISSED.

SO ORDERED.[8]

Petitioner's motion for reconsideration was also denied in an order[9] dated January 21, 2000. Hence, this petition which alleges, as follows:

- IN DISMISSING PETITIONER'S PETITION FOR THE DECLARATION OF HIS MARRIAGE AS NULL AND VOID AB INITIO FOR LACK OF THE REQUISITE MARRIAGE LICENSE BECAUSE OF (THE) DISMISSAL OF AN EARLIER PETITION FOR DECLARATION OF NULLITY OF THE SAME MARRIAGE ON THE GROUND OF HIS WIFE'S PSYCHOLOGICAL INCAPACITY UNDER ARTICLE 36 OF THE FAMILY CODE, THE TRIAL COURT HAD DECIDED A QUESTION OF SUBSTANCE

WHICH HAS PROBABLY NOT HERETOFORE BEEN DETERMINED SQUARELY AND DEFINITELY BY THIS COURT, OR HAD DECIDED IT IN A WAY NOT IN ACCORD WITH LAW.

- IN DISMISSING PETITIONER'S PETITION FOR THE DECLARATION OF NULLITY OF HIS MARRIAGE FOR LACK OF THE REQUISITE MARRIAGE LICENSE, THE TRIAL COURT HAD CONFUSED, DISTORTED AND MISAPPLIED THE FUNDAMENTAL RULES AND CONCEPTS ON RES JUDICATA, SPLITTING OF A CAUSE OF ACTION AND FORUM SHOPPING.[10]

Petitioner argues that while the relief prayed for in the two cases was the same, that is, the declaration of nullity of his marriage to respondent, the cause of action in the earlier case was distinct and separate from the cause of action in the present case because the operative facts upon which they were based as well as the evidence required to sustain either were different. Because there is no identity as to the cause of action, petitioner claims that res judicata does not lie to bar the second petition. In this connection, petitioner maintains that there was no violation of the rule on forum shopping or of the rule which proscribes the splitting of a cause of action.

On the other hand, respondent, in her comment dated May 26, 2000, counters that while the present suit is anchored on a different ground, it still involves the same issue raised in Civil Case No. SP 4341-95, that is, the validity of petitioner and respondent's marriage, and prays for the same remedy, that is, the declaration of nullity of their marriage. Respondent thus contends that petitioner violated the rule on forum shopping. Moreover, respondent asserts that petitioner violated the rule on multiplicity of suits as the ground he cites in this petition could have been raised during the trial in Civil Case No. SP 4341-95.

The petition lacks merit.

The issue before this Court is one of first impression. Should the matter of the invalidity of a marriage due to the absence of an essential requisite prescribed by Article 4 of the Family Code be raised in the same proceeding where the marriage is being impugned on the ground of a party's psychological incapacity under Article 36 of the Family Code?

Petitioner insists that because the action for declaration of nullity of marriage on the ground of psychological incapacity and the action for declaration of nullity of marriage on the ground of absence of marriage license constitute separate causes of action, the present case would not fall under the prohibition against splitting a single cause of action nor would it be barred by the principle of res judicata.

The contention is untenable.

Res judicata is defined as "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. It also refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit." [11]

This doctrine is a rule which pervades every well-regulated system of jurisprudence and is founded upon the following precepts of common law, namely: (1) public policy and necessity, which makes it to the interest of the State that there should be an end to litigation, and (2) the hardship on the individual that he should be vexed twice for the same cause. A contrary doctrine would subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition on the part of suitors to the preservation of the public tranquility and happiness.[12]

In this jurisdiction, the concept of res judicata is embodied in Section 47 (b) and (c) of Rule 39 of the Rules of Court, thus:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

(a) In case of a judgment or final order against a specific thing or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is conclusive upon the title to the thing, the will or administration, or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be prima facie evidence of the death of the testator or intestate;

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and,

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

The above provision outlines the dual aspect of res judicata.[13] Section 47 (b) pertains to it in its concept as "bar by prior judgment" or "estoppel by verdict," which is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. On the other hand, Section 47 (c) pertains to res judicata in its concept as "conclusiveness of judgment" or otherwise known as the rule of autre action pendant which ordains that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.[14] Res judicata in its concept as a bar by prior judgment obtains in the present case.

Res judicata in this sense requires the concurrence of the following requisites: (1) the former judgment is final; (2) it is rendered by a court having jurisdiction over the subject matter and the parties; (3) it is a judgment or an order on the merits; and (4) there is -- between the first and the second actions -- identity of parties, of subject matter, and of causes of action.[15]

Petitioner does not dispute the existence of the first three requisites. What is in issue is the presence of the fourth requisite. In this regard, the test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.[16]

Based on this test, petitioner would contend that the two petitions brought by him seeking the declaration of nullity of his marriage are anchored on separate causes of action for the evidence necessary to sustain the first petition which was anchored on the alleged psychological incapacity of respondent is different from the evidence necessary to sustain the present petition which is anchored on the purported absence of a marriage license.

Petitioner, however, forgets that he is simply invoking different grounds for the same cause of action. By definition, a cause of action is the act or omission by which a party violates the right of another.[17] In both petitions, petitioner has the same cause - the declaration of nullity of his marriage to respondent. What differs is the ground upon which the cause of action is predicated. These grounds cited by petitioner essentially split the various aspects of the pivotal issue that holds the key to the resolution of this controversy, that is, the actual status of petitioner and respondent's marriage.

Furthermore, the instant case is premised on the claim that the marriage is null and void because no valid

celebration of the same took place due to the alleged lack of a marriage license. In Civil Case No. SP 4341-95, however, petitioner impliedly conceded that the marriage had been solemnized and celebrated in accordance with law. Petitioner is now bound by this admission. The alleged absence of a marriage license which petitioner raises now could have been presented and heard in the earlier case. Suffice it to state that parties are bound not only as regards every matter offered and received to sustain or defeat their claims or demand but as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in that case.[18]

It must be emphasized that a party cannot evade or avoid the application of res judicata by simply varying the form of his action or adopting a different method of presenting his case. [19] As this Court stated in *Perez v. Court of Appeals*: [20]

x x x the statement of a different form of liability is not a different cause of action, provided it grows out of the same transaction or act and seeks redress for the wrong. Two actions are not necessarily for different causes of action simply because the theory of the second would not have been open under the pleadings in the first. A party cannot preserve the right to bring a second action after the loss of the first merely by having circumscribed and limited theories of recovery opened by the pleadings in the first.

It bears stressing that a party cannot divide the grounds for recovery. A plaintiff is mandated to place in issue in his pleading, all the issues existing when the suit began. A lawsuit cannot be tried piecemeal. The plaintiff is bound to set forth in his first action every ground for relief which he claims to exist and upon which he relied, and cannot be permitted to rely upon them by piecemeal in successive action to recover for the same wrong or injury.

A party seeking to enforce a claim, legal or equitable, must present to the court, either by the pleadings or proofs, or both, on the grounds upon which to expect a judgment in his favor. He is not at liberty to split up his demands, and prosecute it by piecemeal or present only a portion of the grounds upon which a special relief is sought and leave the rest to the presentment in a second suit if the first fails. There would be no end to litigation if such piecemeal presentation is allowed. (Citations omitted.)

In sum, litigants are provided with the options on the course of action to take in order to obtain judicial relief. Once an option has been taken and a case is filed in court, the parties must ventilate all matters and relevant issues therein. The losing party who files another action regarding the same controversy will be needlessly squandering time, effort and financial resources because he is barred by law from litigating the same controversy all over again.[21]

Therefore, having expressly and impliedly conceded the validity of their marriage celebration, petitioner is now deemed to have waived any defects therein. For this reason, the Court finds that the present action for declaration of nullity of marriage on the ground of lack of marriage license is barred by the decision dated November 11, 1997 of the RTC, Branch 29, of San Pablo City, in Civil Case No. SP 4341-95.

WHEREFORE, the petition is DENIED for lack of merit. Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1]Rollo, pp. 39-42.

[2]Id. at 43-53.

[3]Id. at 53.

[4]Records, p. 33.

[5]Id. at 3-10.

[6]Id. at 15-33.

[7]Id. at 74-77.

[8]Rollo, p. 28.

[9]Records, p. 90.

[10]Rollo, pp. 7-8.

[11]Gutierrez v. CA, G.R. No. 82475, January 28, 1991, 193 SCRA 437.

[12]Cruz v. CA, G.R. No. 164797, February 13, 2006, 482 SCRA 379, quoting Heirs of the Late Faustina Adalid v. Court of Appeals, G.R. No. 122202, May 26, 2005, 459 SCRA 27.

[13]NHA v. Baello, G.R. No. 143230, August 30, 2004, 437 SCRA 86.

[14]Spouses Rasdas v. Estenor, G.R. No. 157605, December 13, 2005, 477 SCRA 538.

[15]Luzon Development Bank v. Conquilla, G.R. No. 163338, September 21, 2005, 470 SCRA 533.

[16]Sangalang v. Caparas, G.R. No. L-49749, June 18, 1987, 151 SCRA 53.

[17]RULES OF COURT, Rule 2, Section 2.

[18]Carlet v. CA, G.R. No. 114275, July 7, 1997, 275 SCRA 97.

[19]Linzag v. Court of Appeals, G.R. No. 122181, June 26, 1998, 291 SCRA 304.

[20]G.R. No. 157616, July 22, 2005, 464 SCRA 89.

[21]Carlet v. CA, *supra* note 18.

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