

REINEL ANTHONY B. DE CASTRO, Petitioner, vs. ANNABELLE ASSIDAO-DE CASTRO, Respondent.*G.R. No. 160172. February 13, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-160172/>**TINGA, J.:**

This is a petition for review of the Decision[1] of the Court of Appeals in CA-GR CV. No. 69166,[2] declaring that (1) Reianna Tricia A. De Castro is the legitimate child of the petitioner; and (2) that the marriage between petitioner and respondent is valid until properly nullified by a competent court in a proceeding instituted for that purpose.

The facts of the case, as culled from the records, follow.

Petitioner and respondent met and became sweethearts in 1991. They planned to get married, thus they applied for a marriage license with the Office of the Civil Registrar of Pasig City in September 1994. They had their first sexual relation sometime in October 1994, and had regularly engaged in sex thereafter. When the couple went back to the Office of the Civil Registrar, the marriage license had already expired. Thus, in order to push through with the plan, in lieu of a marriage license, they executed an affidavit dated 13 March 1995 stating that they had been living together as husband and wife for at least five years. The couple got married on the same date, with Judge Jose C. Bernabe, presiding judge of the Metropolitan Trial Court of Pasig City, administering the civil rites. Nevertheless, after the ceremony, petitioner and respondent went back to their respective homes and did not live together as husband and wife.

On 13 November 1995, respondent gave birth to a child named Reinna Tricia A. De Castro. Since the child's birth, respondent has been the one supporting her out of her income as a government dentist and from her private practice.

On 4 June 1998, respondent filed a complaint for support against petitioner before the Regional Trial Court of Pasig City (trial court).[3] In her complaint, respondent alleged that she is married to petitioner and that the latter has "reneged on his responsibility/obligation to financially support her "as his wife and Reinna Tricia as his child." [4]

Petitioner denied that he is married to respondent, claiming that their marriage is void ab initio since the marriage was facilitated by a fake affidavit; and that he was merely prevailed upon by respondent to sign the marriage contract to save her from embarrassment and possible administrative prosecution due to her pregnant state; and that he was not able to get parental advice from his parents before he got married. He also averred that they never lived together as husband and wife and that he has never seen nor acknowledged the child.

In its Decision dated 16 October 2000,[5] the trial court ruled that the marriage between petitioner and respondent is not valid because it was solemnized without a marriage license. However, it declared petitioner as the natural father of the child, and thus obliged to give her support. Petitioner elevated the case to the Court of Appeals, arguing that the lower court committed grave abuse of discretion when, on the basis of mere belief and conjecture, it ordered him to provide support to the child when the latter is not, and could not have been, his own child.

The Court of Appeals denied the appeal. Prompted by the rule that a marriage is presumed to be subsisting until a judicial declaration of nullity has been made, the appellate court declared that the child was born during the subsistence and validity of the parties' marriage. In addition, the Court of Appeals frowned upon petitioner's refusal to undergo DNA testing to prove the paternity and filiation, as well as his refusal to state with certainty the last time he had carnal knowledge with respondent, saying that petitioner's "forgetfulness should not be used as a vehicle to relieve him of his obligation and reward him of his being irresponsible." [6] Moreover, the Court of Appeals noted the affidavit dated 7 April 1998 executed by petitioner, wherein he voluntarily admitted that he is the legitimate father of the child.

The appellate court also ruled that since this case is an action for support, it was improper for the trial court to declare the marriage of petitioner and respondent as null and void in the very same case. There was no participation of the State, through the prosecuting attorney or fiscal, to see to it that there is no collusion between the parties, as required by the Family Code in actions for declaration of nullity of a marriage. The burden of proof to show that the marriage is void rests upon petitioner, but it is a matter that can be raised in an action for declaration of nullity, and not in the instant proceedings. The proceedings before the trial court should have been limited to the obligation of petitioner to support the child and his wife on the basis of the marriage apparently and voluntarily entered into by petitioner and respondent. [7] The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Decision dated 16 October 2000, of the Regional Trial Court of Pasig City, National Capital Judicial Region, Branch 70, in JDRC No. 4626, is AFFIRMED with the MODIFICATIONS (1) declaring Reihanna Tricia A. De Castro, as the legitimate child of the appellant and the appellee and (2) declaring the marriage on 13 March 1995 between the appellant and the appellee valid until properly annulled by a competent court in a proceeding instituted for that purpose. Costs against the appellant. [8]

Petitioner filed a motion for reconsideration, but the motion was denied by the Court of Appeals. [9] Hence this petition.

Before us, petitioner contends that the trial court properly annulled his marriage with respondent because as shown by the evidence and admissions of the parties, the marriage was celebrated without a marriage license. He stresses that the affidavit they executed, in lieu of a marriage license, contained a false narration of facts, the truth being that he and respondent never lived together as husband and wife. The false affidavit should never be allowed or admitted as a substitute to fill the absence of a marriage license. [10] Petitioner additionally argues that there was no need for the appearance of a prosecuting attorney in this case because it is only an ordinary action for support and not an action for annulment or declaration of absolute nullity of marriage. In any case, petitioner argues that the trial court had jurisdiction to determine the invalidity of their marriage since it was validly invoked as an affirmative defense in the instant action for support. Citing several authorities, [11] petitioner claims that a void marriage can be the subject of a collateral attack. Thus, there is no necessity to institute another independent proceeding for the declaration of nullity of the marriage between the parties. The refiling of another case for declaration of nullity where the same evidence and parties would be presented would entail enormous expenses and anxieties, would be time-consuming for the parties, and would increase the burden of the courts. [12] Finally, petitioner claims that in view of the nullity of his marriage with respondent and his vigorous denial of the child's paternity and filiation, the Court of Appeals gravely erred in declaring the child as his legitimate child.

In a resolution dated 16 February 2004, the Court required respondent and the Office of the Solicitor General (OSG) to file their respective comments on the petition. [13]

In her Comment, [14] respondent claims that the instant petition is a mere dilatory tactic to thwart the finality of the decision of the Court of Appeals. Echoing the findings and rulings of the appellate court, she argues that the

legitimacy of their marriage cannot be attacked collaterally, but can only be repudiated or contested in a direct suit specifically brought for that purpose. With regard to the filiation of her child, she pointed out that compared to her candid and straightforward testimony, petitioner was uncertain, if not evasive in answering questions about their sexual encounters. Moreover, she adds that despite the challenge from her and from the trial court, petitioner strongly objected to being subjected to DNA testing to prove paternity and filiation.[15]

For its part, the OSG avers that the Court of Appeals erred in holding that it was improper for the trial court to declare null and void the marriage of petitioner and respondent in the action for support. Citing the case of *Niñal v. Bayadog*,[16] it states that courts may pass upon the validity of a marriage in an action for support, since the right to support from petitioner hinges on the existence of a valid marriage. Moreover, the evidence presented during the proceedings in the trial court showed that the marriage between petitioner and respondent was solemnized without a marriage license, and that their affidavit (of a man and woman who have lived together and exclusively with each other as husband and wife for at least five years) was false. Thus, it concludes the trial court correctly held that the marriage between petitioner and respondent is not valid.[17] In addition, the OSG agrees with the findings of the trial court that the child is an illegitimate child of petitioner and thus entitled to support.[18]

Two key issues are presented before us. First, whether the trial court had the jurisdiction to determine the validity of the marriage between petitioner and respondent in an action for support and second, whether the child is the daughter of petitioner.

Anent the first issue, the Court holds that the trial court had jurisdiction to determine the validity of the marriage between petitioner and respondent. The validity of a void marriage may be collaterally attacked.[19] Thus, in *Niñal v. Bayadog*, we held:

However, other than for purposes of remarriage, no judicial action is necessary to declare a marriage an absolute nullity. For other purposes, such as but not limited to determination of heirship, legitimacy or illegitimacy of a child, settlement of estate, dissolution of property regime, or a criminal case for that matter, the court may pass upon the validity of marriage even in a suit not directly instituted to question the same so long as it is essential to the determination of the case. This is without prejudice to any issue that may arise in the case. When such need arises, a final judgment of declaration of nullity is necessary even if the purpose is other than to remarry. The clause “on the basis of a final judgment declaring such previous marriage void” in Article 40 of the Family Code connotes that such final judgment need not be obtained only for purpose of remarriage.[20]

Likewise, in *Nicdao Cariño v. Yee Cariño*,[21] the Court ruled that it is clothed with sufficient authority to pass upon the validity of two marriages despite the main case being a claim for death benefits. Reiterating *Niñal*, we held that the Court may pass upon the validity of a marriage even in a suit not directly instituted to question the validity of said marriage, so long as it is essential to the determination of the case. However, evidence must be adduced, testimonial or documentary, to prove the existence of grounds rendering such a marriage an absolute nullity.[22]

Under the Family Code, the absence of any of the essential or formal requisites shall render the marriage void ab initio, whereas a defect in any of the essential requisites shall render the marriage voidable.[23] In the instant case, it is clear from the evidence presented that petitioner and respondent did not have a marriage license when they contracted their marriage. Instead, they presented an affidavit stating that they had been living together for more than five years.[24] However, respondent herself in effect admitted the falsity of the affidavit when she was asked during cross-examination, thus—

ATTY. CARPIO:

Q

But despite of (sic) the fact that you have not been living together as husband and wife for the last five years on or before March 13, 1995, you signed the Affidavit, is that correct?

A

Yes, sir.[25]

The falsity of the affidavit cannot be considered as a mere irregularity in the formal requisites of marriage. The law dispenses with the marriage license requirement for a man and a woman who have lived together and exclusively with each other as husband and wife for a continuous and unbroken period of at least five years before the marriage. The aim of this provision is to avoid exposing the parties to humiliation, shame and embarrassment concomitant with the scandalous cohabitation of persons outside a valid marriage due to the publication of every applicant's name for a marriage license.[26] In the instant case, there was no "scandalous cohabitation" to protect; in fact, there was no cohabitation at all. The false affidavit which petitioner and respondent executed so they could push through with the marriage has no value whatsoever; it is a mere scrap of paper. They were not exempt from the marriage license requirement. Their failure to obtain and present a marriage license renders their marriage void ab initio.

Anent the second issue, we find that the child is petitioner's illegitimate daughter, and therefore entitled to support.

Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.[27] Thus, one can prove illegitimate filiation through the record of birth appearing in the civil register or a final judgment, an admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned, or the open and continuous possession of the status of a legitimate child, or any other means allowed by the Rules of Court and special laws.[28]

The Certificate of Live Birth[29] of the child lists petitioner as the father. In addition, petitioner, in an affidavit waiving additional tax exemption in favor of respondent, admitted that he is the father of the child, thus stating:

- I am the legitimate father of REIANNA TRICIA A. DE CASTRO who was born on November 3, 1995 at Better Living, Parañaque, Metro Manila;[30]

We are likewise inclined to agree with the following findings of the trial court:

That Reinna Tricia is the child of the respondent with the petitioner is supported not only by the testimony of the latter, but also by respondent's own admission in the course of his testimony wherein he conceded that petitioner was his former girlfriend. While they were sweethearts, he used to visit petitioner at the latter's house or clinic. At times, they would go to a motel to have sex. As a result of their sexual dalliances, petitioner became pregnant which ultimately led to their marriage, though invalid, as earlier ruled. While respondent claims that he was merely forced to undergo the marriage ceremony, the pictures taken of the occasion reveal otherwise (Exhs. "B," "B-1," to "B-3," "C," "C-1" and "C-2," "D," "D-1" and "D-2," "E," "E-1" and "E-2," "F," "F-1" and "F-2," "G," "G-1" and "G-2" and "H," "H-1" to "H-3"). In one of the pictures (Exhs. "D," "D-1" and "D-2"), defendant is seen putting the wedding ring on petitioner's finger and in another picture (Exhs. "E," "E-1" and "E-2") respondent is seen in the act of kissing the petitioner.[31]

WHEREFORE, the petition is granted in part. The assailed Decision and Resolution of the Court of Appeals in CA-GR CV No. 69166 are SET ASIDE and the decision of the Regional Trial Court Branch 70 of Pasig City in

JDRC No. 4626 dated 16 October 2000 is hereby REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Velasco, Jr., and Nachura, JJ., concur.

[1] Rollo, pp. 31-41.

[2] Captioned Annabelle Assidao–De Castro v. Reinel Anthony B. De Castro.

[3] The case was eventually raffled to Branch 70 of the Pasig RTC, presided by Judge Pablito M. Rojas.

[4] Records, p. 3, Complaint.

[5] Rollo, pp. 92-94.

[6] Id. at 37.

[7] Id. at 40.

[8] Rollo, p. 41.

[9] Id. at 43-44; Resolution dated 1 October 2003.

[10] Id. at 15-20.

[11] Niñal v. Bayadog, 384 Phil. 661 (2000). TOLENTINO, CIVIL CODE OF THE PHILIPPINES, Vol. I, 1990 Ed. and SEMPIO-DIY, HANDBOOK ON THE FAMILY CODE, 1991 Ed.

[12] Rollo, pp. 25-26.

[13] Id. at 135.

[14] Id. at 119-126.

[15] Id. at 139-144.

[16] 384 Phil. 661, 673 (2000).

[17] Rollo, pp. 174-182.

[18] Id. at 183-185.

[19] Vda. de Jacob v. Court of Appeals, 371 Phil. 693, 704 (1999), citing TOLENTINO, CIVIL CODE OF THE PHILIPPINES: COMMENTARIES AND JURISPRUDENCE, Vol. I, 1987 ed., p. 265.

[20] Niñal v. Bayadog, 384 Phil. 661, 675 (2000).

[21] Cariño v. Cariño, 403 Phil. 861 (2001).

[22] Id. at 132.

[23] FAMILY CODE, Art. 4.

[24] Purportedly complying with Art. 34 of the Family Code, which provides:

Art. 34. No license shall be necessary for the marriage of a man and woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties

shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage.

[25] TSN, 18 February 2000, p. 20.

[26] Niñal v. Bayadog, 384 Phil. 661, 669 (2000), citing THE REPORT OF THE CODE COMMISSION, p. 80.

[27] FAMILY CODE, Art. 175.

[28] FAMILY CODE, Art. 172.

In the book Handbook on the Family Code of the Philippines by Alicia V. Sempio-Diy, p. 246 (1988), the following were given as examples of “other means allowed by the Rules of Court and special laws:” (a) the baptismal certificate of the child ; (b) a judicial admission; (c) the family bible wherein the name of the child is entered; (d) common reputation respecting pedigree; (e) admission by silence; (f) testimonies of witnesses; and (g) other kinds of proof admissible under Rule 130.

[29] Records, p.6.

[30] Id. at 160.

[31] Rollo, pp. 93-94

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