

FELICITAS AMOR-CATALAN, PETITIONER, VS. COURT OF APPEALS, MANILA, ORLANDO B. CATALAN AND MEROPE E. BRAGANZA, RESPONDENTS.

G.R. NO. 167109. February 06, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review assails the Decision[1] of the Court of Appeals in CA-G.R. CV No. 69875 dated August 6, 2004, which reversed the Decision[2] of the Regional Trial Court (RTC) of Dagupan City, Branch 44, in Civil Case No. D-10636, declaring the marriage between respondents Orlando B. Catalan and Merope E. Braganza void on the ground of bigamy, as well as the Resolution[3] dated January 27, 2005, which denied the motion for reconsideration.

Petitioner Felicitas Amor-Catalan married respondent Orlando on June 4, 1950 in Mabini, Pangasinan.[4] Thereafter, they migrated to the United States of America and allegedly became naturalized citizens thereof. After 38 years of marriage, Felicitas and Orlando divorced in April 1988.[5]

Two months after the divorce, or on June 16, 1988, Orlando married respondent Merope in Calasiao, Pangasinan.[6] Contending that said marriage was bigamous since Merope had a prior subsisting marriage with Eusebio Bristol, petitioner filed a petition for declaration of nullity of marriage with damages in the RTC of Dagupan City[7] against Orlando and Merope.

Respondents filed a motion to dismiss[8] on the ground of lack of cause of action as petitioner was allegedly not a real party-in-interest, but it was denied.[9] Trial on the merits ensued.

On October 10, 2000, the RTC rendered judgment in favor of the petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is declared in favor of plaintiff Felicitas Amor Catalan and against defendants Orlando B. Catalan and Merope E. Braganza, as follows:

- 1) The subsequent marriage of Merope Braganza with Orlando B. Catalan is declared null and void ab initio;
- 2) The defendants are ordered jointly and severally to pay plaintiff by way of moral damages the amount of P300,000.00, exemplary damages in the amount of P200,000.00 and attorney's fees in the amount of P50,000.00, including costs of this suit; and
- 3) The donation in consideration of marriage is ordered revoked and the property donated is ordered awarded to the heirs of Juliana Braganza.

Furnish copies of this Decision to Atty. Napoleon B. Arenas, Jr. and Atty. Nolan Evangelista.

SO ORDERED.[10]

Respondents appealed the decision to the Court of Appeals, which reversed the decision of the RTC, thus:

WHEREFORE, premises considered, we hereby GRANT the appeal and consequently REVERSE and SET ASIDE the appealed decision. We likewise DISMISS Civil Case No. D-10636, RTC, Branch 44, Dagupan City. No costs.

SO ORDERED.[11]

After the motion for reconsideration was denied, petitioner filed the instant petition for review raising the following issues:

I.

WHETHER PETITIONER HAS THE REQUIRED STANDING IN COURT TO QUESTION THE NULLITY OF THE MARRIAGE BETWEEN RESPONDENTS;

II.

WHETHER THE FAILURE OF THE COURT OF APPEALS TO DECLARE THE QUESTIONED MARRIAGE VOID CONSTITUTES REVERSIBLE ERROR.[12]

Petitioner contends that the bigamous marriage of the respondents, which brought embarrassment to her and her children, confers upon her an interest to seek judicial remedy to address her grievances and to protect her family from further embarrassment and humiliation. She claims that the Court of Appeals committed reversible error in not declaring the marriage void despite overwhelming evidence and the state policy discouraging illegal and immoral marriages.[13]

The main issue to be resolved is whether petitioner has the personality to file a petition for the declaration of nullity of marriage of the respondents on the ground of bigamy. However, this issue may not be resolved without first determining the corollary factual issues of whether the petitioner and respondent Orlando had indeed become naturalized American citizens and whether they had actually been judicially granted a divorce decree.

While it is a settled rule that the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case,[14] there are, however, exceptions to this rule, like when the findings of facts of the RTC and the Court of Appeals are conflicting, or when the findings are conclusions without citation of specific evidence on which they are based.[15]

Both the RTC and the Court of Appeals found that petitioner and respondent Orlando were naturalized American citizens and that they obtained a divorce decree in April 1988. However, after a careful review of the records, we note that other than the allegations in the complaint and the testimony during the trial, the records are bereft of competent evidence to prove their naturalization and divorce.

The Court of Appeals therefore had no basis when it held:

In light of the allegations of Felicitas' complaint and the documentary and testimonial evidence she presented, we deem it undisputed that Orlando and Felicitas are American citizens and had this citizenship status when they secured their divorce decree in April 1988. We are not therefore dealing in this case with Filipino citizens whose marital status is governed by the Family Code and our Civil Code, but with American citizens who secured their divorce in the U.S. and who are considered by their national law to be free to contract another marriage. x x x[16]

Further, the Court of Appeals mistakenly considered the failure of the petitioner to refute or contest the allegation in respondents' brief, that she and respondent Orlando were American citizens at the time they secured their

divorce in April 1988, as sufficient to establish the fact of naturalization and divorce.[17] We note that it was the petitioner who alleged in her complaint that they acquired American citizenship and that respondent Orlando obtained a judicial divorce decree.[18] It is settled rule that one who alleges a fact has the burden of proving it and mere allegation is not evidence.[19]

Divorce means the legal dissolution of a lawful union for a cause arising after marriage. But divorces are of different types. The two basic ones are (1) absolute divorce or a *vinculo matrimonii* and (2) limited divorce or a *mensa et thoro*. The first kind terminates the marriage, while the second suspends it and leaves the bond in full force.[20] A divorce obtained abroad by an alien may be recognized in our jurisdiction, provided such decree is valid according to the national law of the foreigner.[21] However, before it can be recognized by our courts, the party pleading it must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it, which must be proved considering that our courts cannot take judicial notice of foreign laws.[22]

Without the divorce decree and foreign law as part of the evidence, we cannot rule on the issue of whether petitioner has the personality to file the petition for declaration of nullity of marriage. After all, she may have the personality to file the petition if the divorce decree obtained was a limited divorce or a *mensa et thoro*; or the foreign law may restrict remarriage even after the divorce decree becomes absolute.[23] In such case, the RTC would be correct to declare the marriage of the respondents void for being bigamous, there being already in evidence two existing marriage certificates, which were both obtained in the Philippines, one in Mabini, Pangasinan dated December 21, 1959 between Eusebio Bristol and respondent Merope,[24] and the other, in Calasiao, Pangasinan dated June 16, 1988 between the respondents.[25]

However, if there was indeed a divorce decree obtained and which, following the national law of Orlando, does not restrict remarriage, the Court of Appeals would be correct in ruling that petitioner has no legal personality to file a petition to declare the nullity of marriage, thus:

Freed from their existing marital bond, each of the former spouses no longer has any interest nor should each have the personality to inquire into the marriage that the other might subsequently contract. x x x Viewed from another perspective, Felicitas has no existing interest in Orlando's subsequent marriage since the validity, as well as any defect or infirmity, of this subsequent marriage will not affect the divorced status of Orlando and Felicitas. x x x[26]

True, under the New Civil Code which is the law in force at the time the respondents were married, or even in the Family Code, there is no specific provision as to who can file a petition to declare the nullity of marriage; however, only a party who can demonstrate "proper interest" can file the same. A petition to declare the nullity of marriage, like any other actions, must be prosecuted or defended in the name of the real party in interest[27] and must be based on a cause of action.[28] Thus, in *Niñal v. Bayadog*,[29] the Court held that the children have the personality to file the petition to declare the nullity of the marriage of their deceased father to their stepmother as it affects their successional rights.

Significantly, Section 2(a) of The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, which took effect on March 15, 2003, now specifically provides:

SECTION 2. Petition for declaration of absolute nullity of void marriages. -

(a) Who may file. - A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.

x x x x

In fine, petitioner's personality to file the petition to declare the nullity of marriage cannot be ascertained because

of the absence of the divorce decree and the foreign law allowing it. Hence, a remand of the case to the trial court for reception of additional evidence is necessary to determine whether respondent Orlando was granted a divorce decree and whether the foreign law which granted the same allows or restricts remarriage. If it is proved that a valid divorce decree was obtained and the same did not allow respondent Orlando's remarriage, then the trial court should declare respondents' marriage as bigamous and void ab initio but reduce the amount of moral damages from P300,000.00 to P50,000.00 and exemplary damages from P200,000.00 to P25,000.00. On the contrary, if it is proved that a valid divorce decree was obtained which allowed Orlando to remarry, then the trial court must dismiss the instant petition to declare nullity of marriage on the ground that petitioner Felicitas Amor-Catalan lacks legal personality to file the same.

WHEREFORE, in view of the foregoing, let this case be REMANDED to the trial court for its proper disposition. No costs.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 14-24. Penned by Associate Justice Arturo D. Brion and concurred in by Associate Justices Delilah Vidallon-Magtolis and Eliezer R. De los Santos.

[2] Records, pp. 164-168. Penned by Judge Crispin C. Laron.

[3] Rollo, pp. 33-34.

[4] Records, p. 4.

[5] Id. at 1.

[6] Id. at 5.

[7] Id. at 1-3.

[8] Id. at 10-12.

[9] Id. at 19.

[10] Id. at 167-168.

[11] Rollo, p. 54.

[12] Id. at 6-7.

[13] Id. at 8-9.

[14] Bank of the Philippine Islands v. Sarmiento, G.R. No. 146021, March 10, 2006, 484 SCRA 261, 267-268.

[15] Id.

[16] Rollo, pp. 22-23.

[17] Id. at 22.

[18] Records, p. 1.

[19] Republic v. Orbecido III, G.R. No. 154380, October 5, 2005, 472 SCRA 114, 123.

[20] Garcia v. Recio, 418 Phil. 723, 735-736 (2001).

[21] *Roehr v. Rodriguez*, 452 Phil. 608, 617 (2003).

[22] *Republic v. Orbecido III*, *supra*.

[23] *Garcia v. Recio*, *supra* at 736.

[24] *Records*, p. 7.

[25] *Id.* at 5.

[26] *Rollo*, p. 23.

[27] RULES OF COURT, Rule 3, Sec. 2.

[28] RULES OF COURT, Rule 2, Sec. 1.

[29] 384 Phil. 661 (2000).

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