

ROSEMARIE SALMA ARAGONCILLO-MOLOK, PETITIONER, VS. SITY AISA BARANGAI MOLOK, RESPONDENT.

G.R. No. 169627. April 06, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Sity Aisa Barangai Molok (respondent) and Col Agakhan M. Molok, both residents of Matina, Davao City, contracted marriage[1] on June 29, 1992, solemnized by Judge Virginia Hofflena-Europa at the Municipal Trial Courts in Cities, Ecoland, Matina, Davao City. The marriage was registered at the Local Civil Registrar of Davao City under Registry No. 1495 on July 3, 1992.

On November 20, 2003, Agakhan Molok, then a member of the Philippine Army, died in General Santos City.

When respondent went to the Philippine Army office to claim the death benefits of her late husband, she discovered that there was another claimant, Rosemarie Salma Aragoncillo-Molok (petitioner), a resident of Poblacion, Pikit, Cotabato, who declared herself as the wife of Agakhan Molok by virtue of a Certificate of Marriage[2] executed on May 20, 1999 in Taguig, Metro Manila. The marriage, which was purportedly solemnized by Imam Ustadz Moha-imen Ulama under Muslim rites carried out at the Manila Golden Mosque and Cultural Center, Globo de Oro St., Quiapo, Manila,[3] was registered before the Shari'a District Court Muslim Civil Registrar of Zamboanga City under Registry No. 25901 on June 14, 2004.[4]

Upon inquiry, respondent found out that there was no record of the second marriage, per Certification[5] dated August 14, 2004 by Manila Golden Mosque and Cultural Center Administrator Rakman T. Ali, Al Haj. She also discovered that the solemnizing officer, Ustadz Moha-imen Ulama, never solemnized the supposed marriage of petitioner and Agakhan Molok, as stated in his Affidavit[6] dated May 4, 2004.

Respondent thus filed on October 17, 2004 a verified petition[7] "for cancellation of registration of the alleged marriage" of petitioner and Agakhan Molok before the Third Shari'a District Court of Zamboanga City, docketed as SPL. PROC. No. 01-04. The petition, which was later amended[8] by impleading the Shari'a District Court Registrar of Zamboanga City and OIC Civil Registrar Duraida A. Abdulkakie, prayed that, after notice and hearing:

1. the registration of the alleged marriage between COL. AGAKHAN M. MOLOK and the Respondent, ROSEMARIE SALMA ARAGONCILLO, be cancelled and rendered of no effect, such being done to deceive the government of partaking of the claims of the heirs of COL. AGAKHAN M. MOLOK, aside from being registered seven (7) months after the latter's death;
2. the public respondents be ordered to rectify the records of the registry of marriages by canceling the registry of the marriage between COL. MOLOK and the private respondent;
3. the [private] Respondent be made to pay for the costs of this suit, attorney's fees incurred by the Petitioner in the filing of this case in the amount of THIRTY THOUSAND (P30,000.00) PESOS, and appearance fees;

Such other relief and remedies as are just and equitable under the premises are also prayed for.

x x x x (emphasis and underscoring supplied)

Finding the petition to be sufficient in form and substance, the trial court, by Order[9] of January 24, 2005, (1) set the hearing of the petition on March 28, 2005 at 8:30 in the morning at the Third Floor, Hall of Justice, Sta. Barbara, Zamboanga City; (2) ordered all persons who oppose it to appear and show cause why the petition shall not be granted; and (3) ordered the publication of the Order once a week for three consecutive weeks in a newspaper of general circulation in Zamboanga City, at the expense of respondent, and the posting of copies of said Order in three conspicuous public places for the information of all concerned.

After notices of the January 24, 2005 Order were sent to the parties,[10] petitioner sent a letter[11] dated February 18, 2005 addressed to the Clerk of Court, Shari'a District Court, Zamboanga City, wherein she manifested her opposition to the grant of respondent's petition.

Petitioner later filed before the trial court a "Manifestation (With prayer for reconsideration of the January 25 [should be 24], 2005 Order)"[12] dated March 16, 2005 which reads:

xxxx

Respondent alleges that:

She has not received any copy of the petition and the summons requiring her to submit an Answer thereto;

Unless she is furnished with the copy of the petition and its exhibits, respondent could not file a responsive pleading in accordance with the Rules;

It is only upon the filing of an Answer that the issues can be joined.

WHEREFORE, respondent prays that an Order issue:

- Directing the Clerk of Court to furnish the respondent with the copy of the Petition together with its exhibits;
- Setting aside the January 24, 2005 Order of the Court and require the respondent [to] file ... responsive pleading and/or comments so that issues can be joined;
- Other relief.

Respectfully submitted.

xxxx. (emphasis and underscoring supplied)

The trial court, however, did not act on petitioner's Manifestation (With prayer for reconsideration of the January 2[4], 2005 Order).

During the scheduled hearing of the petition on March 28, 2005, only respondent and her counsel Atty. Hamid A. Barra appeared. Evidence showing compliance with the jurisdictional requirements of publication of the January 24, 2005 Order[13] and posting of notices[14] was thereupon presented and respondent took the witness stand in support of her petition.

By Decision[15] of June 28, 2005, the trial court found for respondent. It noted that petitioner "has not filed any formal opposition" to petitioner's petition pursuant to Section 5, Rule 108 which provides:

Section 5. Opposition.- The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last day of publication of such notice, file his opposition thereto.

Thus, the Shari'a District Court disposed:

WHEREFORE, foregoing considered the Muslim marriage between the respondent Rosemarie Salma Aragoncillo and the late Col. Agakhan M. Molok covered by Certificate of Marriage issued by the Third Shari'a District Court Muslim Civil Registrar of Zamboanga City under Registry No. 25901, dated June 14, 2004, is hereby DECLARED as NULL and VOID, inexistent and without any legal effect whatsoever. The Third Shari'a District Court Muslim Civil Registrar of Zamboanga City is hereby ORDERED to CANCEL from its registration book of marriage certificate Marriage Registry No. 25901, dated June 14, 2004, by and between Rosemarie Salma Aragoncillo and Agakhan M. Molok.

SO ORDERED.[16] (emphasis supplied)

Petitioner filed a motion for reconsideration[17] which the trial court, by Order of August 1, 2005, set for hearing on September 1, 2005[18]. No hearing was held on that date, however, as it was a non-working Muslim holiday. The clerk of the trial court then advised petitioner to wait for a notice of resetting of the hearing.[19]

It appears that no notice of resetting of petitioner's motion for reconsideration was issued. It turned out that petitioner's motion for reconsideration of the decision was denied by Order of July 25, 2005[20] or before the originally scheduled hearing thereof on September 1, 2005.

Hence, this direct recourse to this Court via petition for review on certiorari, contending that, among other things, the trial court, in rendering its decision solely on the basis of respondent's petition, violated her constitutional right to due process.

Respondent, in her Comment, counters that petitioner was afforded due process since she was notified of the hearing on the petition as she, in fact, prayed for a reconsideration of the January 24, 2005 Order setting the petition for hearing, and had "manifested her opposition thereto." Her failure to file her opposition, respondent concludes, was thus unwarranted.

The Court finds that petitioner was indeed denied her right to due process.

Petitioner was merely notified of the hearing of respondent's petition on March 28, 2005 by Order of January 24, 2005. Neither respondent nor the trial court furnished petitioner with a copy of respondent's petition and its annexes, despite her plea therefor.

Indeed, when the trial court ignored her plea, through her "Manifestation (With prayer for reconsideration of the January 2[4], 2005 Order)" dated March 16, 2005, that she be furnished with a copy of respondent's petition and its annexes so that she could file her opposition thereto, petitioner was denied her day in court. Why petitioner's plea was unheeded, no reason was proffered by the trial court. It need not be underlined that her plea was meritorious, given the adversarial nature of the proceedings under Rule 108.

In raising the issue of denial of due process in petitioner's motion for reconsideration of the decision, the trial court, by Order of July 25, 2005,[21] did not specifically address the same. Oddly, said Order was issued on July 25, 2005, when petitioner's motion for reconsideration was set for hearing yet on September 1, 2005, albeit no hearing was held since; as stated earlier, it was a non-working Muslim holiday, and despite the Clerk of Court's assurance that petitioner would be advised of the date of resetting of the hearing.

WHEREFORE, the petition is GRANTED. The assailed Decision and Order dated June 28, 2005 and July 25, 2005, respectively, of the Third Shari'a District Court in Spl. Proc. No. 01-04 are REVERSED and SET ASIDE. This case is REMANDED to said court for further proceedings.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

- [1] Annex "A" (Marriage Contract) of Amended Petition of Sity Aisa Barangai Molok, records, pp.
- [2] Annex "B," id. at 43.
- [3] Annex "C," id. at 44.
- [4] Decision dated June 28, 2005 of the Shari'a District Court, id. 152-153.
- [5] Id. at 46.
- [6] Id. at 47.
- [7] Id. at 1-15.
- [8] Id. at 34, 37-52.
- [9] Id. 69-71.
- [10] Certification by the Process Server, id. at 73, 75.
- [11] Id. at 78.
- [12] Id. at 83-84.
- [13] Exhibits "I" (publisher's affidavit of publication), "J" (first publication dated Feb. 26, 2005), "K" (second publication dated March 5, 2005), and "L" (third publication dated March 12, 2005), id. at 79, 80,81,82.
- [14] Certification of Posting by the Process Server, id. at 76.
- [15] Id. at 152-155.
- [16] Id. at 154-155.
- [17] Id. at 166-170.
- [18] Id. at 174-175.
- [19] Par. No. 7 of the present petition, rollo, p. 14.
- [20] Records, pp. 178-179.
- [21] Id. at 178-179.

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