

ESTRELLITA JULIAJVO-LLAVE, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, HAJA PUTRI ZORAYDA A. TAMANO AND ADIB AHMAD A. TAMANO, RESPONDENTS.

G.R. No. 169766. March 30, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

A new law ought to affect the future, not what is past. Hence, in the case of subsequent marriage laws, no vested rights shall be impaired that pertain to the protection of the legitimate union of a married couple.

This petition for review on certiorari assails the Decision[1] dated August 17, 2004 of the Court of Appeals (CA) in CA-GR. CVNo. 61762 and its subsequent Resolution[2] dated September 13, 2005, which affirmed the Decision of the Regional Trial Court (RTC) of Quezon City, Branch 89 declaring petitioner Estrellita Juliano-Llave's (Estrellita) marriage to Sen. Mamintal AJ. Tamano (Sen. Tainano) as void ab initio.

Factual Antecedents

Around 11 months before his death, Sen. Tamano married Estrellita twice -initially under the Islamic laws and tradition on May 27, 1993 in Cotabato City[3] and, subsequently, under a civil ceremony officiated by an RTC Judge at Malabang, Lanao del Sur on June 2, 1993.[4] In their marriage contracts, Sen. Tamano's civil status was indicated as 'divorced.'

Since then, Estrellita has been representing herself to the whole world as Sen. Tamano's wife, and upon his death, his widow.

On November 23, 1994, private respondents Haja Putri Zorayda A. Tamano (Zorayda) and her son Adib Ahmad A. Tamano (Adib), in their own behalf and in behalf of the rest of Sen. Tamano's legitimate children with Zorayda,[5] filed a complaint with the RTC of Quezon City for the declaration of nullity of marriage between Estrellita and Sen. Tamano for being bigamous. The complaint[6] alleged, inter alia, that Sen. Tamano married Zorayda on May 31, 1958 under civil rites, and that this marriage remained subsisting when he married Estrellita in 1993. The complaint likewise averred that:

11. The marriage of the deceased and Complainant Zorayda, having been celebrated under the New Civil Code, is therefore governed by this law. Based on Article 35 (4) of the Family Code, the subsequent marriage entered into by deceased Mamintal with Defendant Llave is void ab initio because he contracted the same while his prior¹ marriage to Complainant Zorayda was still subsisting, and his status being declared as "divorced" has no factual or legal basis, because the deceased never divorced Complainant Zorayda in his lifetime, and he could not have validly done so because divorce is not allowed under the New Civil Code;

11.1 Moreover, the deceased did not and could not have divorced Complainant Zorayda by invoking the provision of P.D. 1083, otherwise known as the Code of Muslim Personal Laws, for the simple reason that the marriage of the deceased with Complainant Zorayda was never deemed, legally and factually, to have been one

contracted under Muslim law as provided under Art. 186 (2) of P.D. 1083, since they (deceased and Complainant Zorayda) did not register their mutual desire to be thus covered by this law;[7]

Summons was then served on Estrellita on December 19, 1994. She then asked from the court for an extension of 30 days to file her answer to be counted from January 4, 1995,[8] and again, another 15 days[9] or until February 18, 1995, both of which the court granted.[10]

Instead of submitting her answer, however, Estrellita filed a Motion to Dismiss[11] on February 20, 1995 where she declared that Sen. Tamano and Zorayda are both Muslims who were married under the Muslim rites, as had been averred in the latter's disbarment complaint against Sen. Tamano.[12] Estrellita argued that the RTC has no jurisdiction to take cognizance of the case because under Presidential Decree (PD) No. 1083, or the Code of Muslim Personal Laws of the Philippines (Muslim Code), questions and issues involving Muslim marriages and divorce fall under the exclusive jurisdiction of shari'a courts.

The trial court denied Estrellita's motion and asserted its jurisdiction over the case for declaration of nullity.[13] Thus, Estrellita filed in November 1995 a certiorari petition with this Court questioning the denial of her Motion to Dismiss. On December 15, 1995, we referred the petition to the CA[14] which was docketed thereat as CA-GR. SP No. 39656.

During the pendency of CA-GR. SP No. 39656, the RTC continued to try the case since there can be no default in cases of declaration of nullity of marriage even if the respondent failed to file an answer. Estrellita was allowed to participate in the trial while her opposing parties presented their evidence. When it was A Estrellita's turn to adduce evidence, the hearings set for such purpose[15] were postponed mostly at her instance until the trial court, on March 22, 1996, suspended the proceedings[16] in view of the CA's temporary restraining order issued on February 29, 1996, enjoining it from hearing the case. [17]

Eventually, however, the CA resolved the petition adverse to Estrellita in its Decision dated September 30, 1996.,[18] Estrellita then elevated the appellate court's judgment to this Court by way of a petition for review on certiorari docketed as GR.No. 126603.[19]

Subsequent to the promulgation of the CA Decision, the RTC ordered Estrellita to present her evidence on June 26, 1997.[20] As Estrellita was indisposed on that day, the hearing was reset to July 9, 1997.[21] The day before this scheduled hearing, Estrellita again asked for a postponement.[22]

Unhappy with the delays in the resolution of their case, Zorayda and Adib moved to submit the case for decision[23], reasoning that Estrellita had long been delaying the case. Estrellita opposed, on the ground that she has not yet filed her answer as she still awaits the outcome of GR. No. 126603.[24]

On June 29, 1998, we upheld the jurisdiction of the RTC of Quezon City,[25] stating as one of the reasons that as shari'a courts are not vested with original and exclusive jurisdiction in cases of marriages celebrated under both the Civil Code and PD 1083, the RTC, as a court of general jurisdiction, is not precluded from assuming jurisdiction over such cases. In our Resolution dated August 24, 1998,[26] we denied Estrellita's motion for reconsideration[27] with finality.

A few days before this resolution, or on August 18, 1998, the RTC rendered the aforementioned judgment declaring Estrellita's marriage with Sen. Tamano as void ab initio.[28]

Ruling of the Regional Trial Court

The RTC, finding that the marital ties of Sen. Tamano and Zorayda were never severed, declared Sen. Tamano's subsequent marriage to Estrellita as void ah initio for being bigamous under Article 35 of the Family Code of the

Philippines and under Article 83 of the Civil Code of the Philippines.[29] The court said:

A comparison between Exhibits A and B (supra) immediately shows that the second marriage of the late Senator with [Estrellita] was entered into during the subsistence of his first marriage¹ with [Zorayda]. This renders the subsequent marriage void from the very beginning. The fact that the late Senator declared his civil status as "divorced" will not in any way affect the void character of the second marriage because, in this jurisdiction, divorce obtained by the Filipino spouse is not an acceptable method of terminating the effects of a previous marriage, especially, where the subsequent marriage was solemnized under the Civil Code or Family Code.[30]

Ruling of the Court of Appeals

In her appeal,[31] Estrellita argued that she was denied her right to be heard as the RTC rendered its judgment even without waiting for the finality of the Decision of the Supreme Court in GR. No. 126603. She claimed that the RTC should have required her to file her answer after the denial of her motion to dismiss. She maintained that Sen. Tamano is capacitated to marry her as his marriage and subsequent divorce with Zorayda is governed by the Muslim Code. Lastly, she highlighted Zorayda's lack of legal standing to question the validity of her marriage to the deceased.

In dismissing the appeal in its Decision dated August 17, 2004,[32] the CA held that Estrellita can no longer be allowed to file her answer as she was given ample opportunity to be heard but simply ignored it by asking for numerous postponements. She never filed her answer despite the lapse of around 60 days, a period longer than what was prescribed by the rules. It also ruled that Estrellita cannot rely on her pending petition for certiorari with the higher courts since, as an independent and original action, it does not interrupt the proceedings in the trial court.

As to the substantive merit of the case, the CA adjudged that Estrellita's marriage to Sen. Tamano is void ab initio for being bigamous, reasoning that the marriage of Zorayda and Sen. Tamano is governed by the Civil Code, which does not provide for an absolute divorce. It noted that their first nuptial celebration was under civil rites, while the subsequent Muslim celebration was only ceremonial. Zorayda then, according to the CA, had the legal standing to file the action as she is Sen. Tamano's wife and, hence, the injured party in the senator's subsequent bigamous marriage with Estrellita.

In its September 13, 2005 Resolution,[33] the CA denied Estrellita's Motion for Reconsideration/Supplemental Motion for Reconsideration where it debunked the additional errors she raised. The CA noted that the allegation of lack of the public prosecutor's report on the existence of collusion in violation of both Rule 9, Section 3(e) of the Rules of Court[34] and Article 48 of the Family Code[35] will not invalidate the trial court's judgment as the proceedings between the parties had been adversarial, negating the existence of collusion. Assuming that the issues have not been joined before the RTC, the same is attributable to Estrellita's refusal to file an answer. Lastly, the CA disregarded Estrellita's allegation that the trial court erroneously rendered its judgment way prior to our remand to the RTC of the records of the case ratiocinating that GR. No. 126603 pertains to the issue on the denial of the Motion to Dismiss, and not to the issue of the validity of Estrellita's marriage to Sen. Tamano.

The Parties' Respective Arguments

Reiterating her arguments before the court a quo, Estrellita now argues that the CA erred in upholding the RTC judgment as the latter was prematurely issued, depriving her of the opportunity to file an answer and to present her evidence to dispute the allegations against the validity of her marriage. She claims that Judge Macias v. Macias[36] laid down the rule that the filing of a motion to dismiss instead of an answer suspends the period to file an answer and, consequently, the trial court is obliged to suspend proceedings while her motion to dismiss on

the ground of lack of jurisdiction has not yet been resolved with finality. She maintains that she merely participated in the RTC hearings because of the trial court's assurance that the proceedings will be without prejudice to whatever action the High Court will take on her petition questioning the RTC's jurisdiction and yet, the RTC violated this commitment as it rendered an adverse judgment on August 18, 1998, months before the records of GR. No. 126603 were remanded to the CA on November 11, 1998.[37] She also questions the lack of a report of the public prosecutor anent a finding of whether there was collusion, this being a prerequisite before further proceeding could be held when a party has failed to file an answer in a suit for declaration of nullity of marriage.

Estrellita is also steadfast in her belief that her marriage with the late senator is valid as the latter was already divorced under the Muslim Code at the time he married her. She asserts that such law automatically applies to the marriage of Zorayda and the deceased without need of registering their consent to be covered by it, as both parties are Muslims whose marriage was solemnized under Muslim law. She pointed out that Sen. Tamano married all his wives under Muslim rites, as attested to by the affidavits of the siblings of the deceased.[38]

Lastly, Estrellita argues that Zorayda and Adib have no legal standing to file suit because only the husband or the wife can file a complaint for the declaration of nullity of marriage under Supreme Court Resolution A.M. No. 02-11-10-SC.[39]

Refuting the arguments, the Solicitor General (Sol Gen) defends the CA's reasoning and stresses that Estrellita was never deprived of her right to be heard; and, that filing an original action for certiorari does not stay the proceedings of the main action before the RTC.

As regards the alleged lack of report of the public prosecutor if there is collusion, the Sol Gen says that this is no longer essential considering the vigorous opposition of Estrellita in the suit that obviously shows the lack of collusion. The Sol Gen also supports private respondents' legal standing to challenge the validity of Estrellita's purported marriage with Sen. Tamano, reasoning that any proper interested party may attack directly or collaterally a void marriage, and Zorayda and Adib have such right to file the action as they are the ones prejudiced by the marital union.

Zorayda and Adib, on the other hand, did not file any comment

Issues

The issues that must be resolved are the following:

1. Whether the CA erred in affirming the trial court's judgment, even though the latter was rendered prematurely because: a) the judgment was rendered without waiting for the Supreme Court's final resolution of her certiorari petition, i.e., GR. No. 126603; b) she has not yet filed her answer and thus was denied due process; and c) the public prosecutor did not even conduct an investigation whether there was collusion;
2. Whether the marriage between Estrellita and the late Sen. Tamano was bigamous; and
3. Whether Zorayda and Adib have the legal standing to have Estrellita's marriage declared void ab initio.

Our Ruling

Estrellita's refusal to file an answer eventually led to the loss of her right to answer; and her pending petition for certiorari/review on certiorari questioning the denial of the motion to dismiss before the higher courts does not at all suspend the trial proceedings of the principal suit before the RTC of Quezon City.

Firstly, it can never be argued that Estrellita was deprived of her right to due process. She was never declared in default, and she even actively participated in the trial to defend her interest.

Estrellita invokes Judge Macias v. Macias [40] to justify the suspension of the period to file an answer and of the proceedings in the trial court until her petition for certiorari questioning the validity of the denial of her Motion to Dismiss has been decided by this Court. In said case, we affirmed the following reasoning of the CA which, apparently, is Estrellita's basis for her argument, to wit

However, she opted to file, on April 10, 2001, a 'Motion to Dismiss' instead of filing an Answer to the complaint. The filing of said motion suspended the period for her to file her Answer to the complaint. Until said motion is resolved by the Respondent Court with finality, it behooved the Respondent Court to suspend the hearings of the case on the merits. The Respondent Court, on April 19, 2001, issued its Order denying the 'Motion to Dismiss' of the Petitioner. Under Section 6, Rule 16 of the 1997 Rules of Civil Procedure [now Section 4], the Petitioner had the balance of the period provided for in Rule 11 of the said Rules but in no case less than five (5) days computed from sendee on her of the aforesaid Order of the Respondent Court within which to file her Answer to the complaint x x x [41]' (Emphasis supplied.)

Estrellita obviously misappreciated Macias. All we pronounced therein is that the trial court is mandated to suspend trial until it finally resolves the motion to dismiss that is filed before it. Nothing in the above excerpt states that the trial court should suspend its proceedings should the issue of the propriety or impropriety of the motion to dismiss be raised before the appellate courts. In Macias, the trial court failed to observe due process in the course of the proceeding of the case because after it denied the wife's motion to dismiss, it immediately proceeded to allow the husband to present evidence ex parte and resolved the case with undue haste even when, under the rules of procedure, the wife still had time to file an answer. In the instant case, Estrellita had no time left for filing an answer, as she filed the motion to dismiss beyond the extended period earlier granted by the trial court after she filed motions for extension of time to file an answer.

Estrellita argues that the trial court prematurely issued its judgment, as it should have waited first for the resolution of her Motion to Dismiss before the CA and, subsequently, before this Court. However, in upholding the RTC, the CA correctly ailed that the pendency of a petition for certiorari does not suspend the proceedings before the trial court. "An application for certiorari is an independent action which is not part or a continuation of the trial which resulted in the rendition of the judgment complained of." [42] Rule 65 of the Rules of Court is explicit in stating that "[t]he petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case." [43] In fact, the trial court respected the CA's temporary restraining order and only after the CA rendered judgment did the RTC again require Estrellita to present her evidence.

Notably, when the CA judgment was elevated to us by way of Rule 45, we never issued any order precluding the trial court from proceeding with the principal action. With her numerous requests for postponements, Estrellita remained obstinate in refusing to file an answer or to present her evidence when it was her turn to do so, insisting that the trial court should wait first for our decision in GR. Mo. 126603. Her failure to file an answer and her refusal to present her evidence were attributable only to herself and she should not be allowed to benefit from her own dilatory tactics to the prejudice of the other party. Sans her answer, the trial court correctly proceeded with the trial and rendered its Decision after it deemed Estrellita to have waived her right to present her side of the story. Neither should the lower court wait for the decision in GR. No. 126603 to become final and executory, nor should it wait for its records to be remanded back to it because GR. No. 126603 involves strictly the propriety of the Motion to Dismiss and not the issue of validity of marriage.

The Public Prosecutor issued a report as

to the non-existence of collusion.

Aside from Article 48 of the Family Code and Rule 9, Section 3(e) of the Rules of Court, the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC)[44] also requires the participation of the public prosecutor in cases involving void marriages. It specifically mandates the prosecutor to submit his investigation report to determine whether there is collusion between the parties:

Sec. 9. Investigation report of public prosecutor.- (1) Within one month after receipt of the court order mentioned in paragraph (3) of Section 8 above, the public prosecutor shall submit a report to the court stating whether the parties are in collusion and serve copies thereof on the parties and their respective counsels, if any.

(2) If the public prosecutor finds that collusion exists, he shall slate the basis thereof in his report. The parties shall file their respective comments on the finding of collusion within ten days from receipt of a copy of the report. The court shall set the report for hearing and if convinced that the parties are in collusion, it shall dismiss the petition.

(3) If the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial. It shall be the duty of the public prosecutor to appear for the State at the pre-trial.

Records show that the trial court immediately directed the public prosecutor to submit the required report,[45] which we find to have been sufficiently complied with by Assistant City Prosecutor Edgardo T. Paragua in his Manifestation dated March 30, 1995,[46] wherein he attested that there could be no collusion between the parties and no fabrication of evidence because Estrellita is not the spouse of any of the private respondents.

Furthermore, the lack of collusion is evident in the case at bar. Even assuming that there is a lack of report of collusion or a lack of participation by the public prosecutor, just as we held in *Tuason v. Court of Appeals*,[47] the lack of participation of a fiscal does not invalidate the proceedings in the trial court:

The role of the prosecuting attorney or fiscal in annulment of marriage and legal separation proceedings is to determine whether collusion exists between the parties and to take care that the evidence is not suppressed or fabricated. Petitioner's vehement opposition to the annulment proceedings negates the conclusion that collusion existed between the parties. There is no allegation by the petitioner that evidence was suppressed or fabricated by any of the parties. Under these circumstances, we are convinced that the nonintervention of a prosecuting attorney to assure lack of collusion between the contending parties is not fatal to the validity of the proceedings in the trial court.[48]

The Civil Code governs the marriage of Zorayda and the late Sen. Tamano; their marriage was never invalidated by PD 1083. Sen. Tamano's subsequent marriage to Estrellita is void ab initio.

The marriage between the late Sen. Tamano and Zorayda was celebrated in 1958, solemnized under civil and Muslim rites.[49] The only law in force governing marriage relationships between Muslims and non-Muslims alike was the Civil Code of 1950, under the provisions of which only one marriage can exist at any given time.[50] Under the marriage provisions of the Civil Code, divorce is not recognized except during the effectivity of Republic Act No. 394[51] which was not availed of during its effectivity.

As far as Estrellita is concerned, Sen. Tamano's prior marriage to Zorayda has been severed by way of divorce under PD 1083,[52] the law that codified Muslim personal laws. However, PD 1083 cannot benefit Estrellita. Firstly, Article 13(1) thereof provides that the law applies to "marriage and divorce wherein both parties are Muslims, or wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines." But we already ruled in GR. No. 126603 that "Article 13 of PD

1083 does not provide for a situation where the parties were married both in civil and Muslim rites." [53]

Moreover, the Muslim Code took effect only on February 4, 1977, and this law cannot retroactively override the Civil Code which already bestowed certain rights on the marriage of Sen. Tamano and Zorayda. The former explicitly provided for the prospective application of its provisions unless otherwise provided:

Art. 186 (1). Effect of code on past acts. — Acts executed prior to the effectivity of this Code shall be governed by the laws in force at the time of their execution, and nothing herein except as otherwise specifically provided, shall affect their validity or legality or operate to extinguish any right acquired or liability incurred thereby.

It has been held that:

The foregoing provisions are consistent with the principle that all laws operate prospectively, unless the contrary appears or is clearly, plainly and unequivocally expressed or necessarily implied; accordingly, every case of doubt will be resolved against the retroactive operation of laws. Article 186 aforecited enunciates the general rule of the Muslim Code to have its provisions applied prospectively, and implicitly upholds the force and effect of a pre-existing body of law, specifically, the Civil Code - in respect of civil acts that took place before the Muslim Code's enactment. [54]

An instance of retroactive application of the Muslim Code is Article 186(2) which states:

A marriage contracted by a Muslim male prior to the effectivity of this Code in accordance with non-Muslim law shall be considered as one contracted under Muslim law provided the spouses register their mutual desire to this effect.

Even granting that there was registration of mutual consent for the marriage to be considered as one contracted under the Muslim law, the registration of mutual consent between Zorayda and Sen. Tamano will still be ineffective, as both are Muslims whose marriage was celebrated under both civil and Muslim laws. Besides, as we have already settled, the Civil Code governs their personal status since this was in effect at the time of the celebration of their marriage. In view of Sen. Tamano's prior marriage which subsisted at the time Estrellita married him, their subsequent marriage is correctly adjudged by the CA as void ab initio.

Zorayda and Adib, as the injured parties, have the legal personalities to file the declaration of nullity of marriage. A.M. No. 02-11-10SC, which limits to only the husband or the wife the filing of a petition for nullity is prospective in application and does not shut out the prior spouse from filing suit if the ground is a bigamous subsequent marriage.

Her marriage covered by the Family Code of the Philippines," [55] Estrellita relies on A.M. No. 02-11-10-SC which took effect on March 15, 2003 claiming that under Section 2(a) [56] thereof, only the husband or the wife, to the exclusion of others, may file a petition for declaration of absolute nullity, therefore only she and Sen. Tamano may directly attack the validity of their own marriage.

Estrellita claims that only the husband or the wife in a void marriage can file a petition for declaration of nullity of marriage. However, this interpretation does not apply if the reason behind the petition is bigamy.

In explaining why under A.M. No. 02-11-10-SC only the spouses may file the petition to the exclusion of compulsory or intestate heirs, we said:

The Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders explicates on Section 2(a) in the following manner, viz:

(1) Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution.[57]

Note that the Rationale makes it clear that Section 2(a) of A.M. No. 02-11-10-SC refers to the "aggrieved or injured spouse." If Estrellita's interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.

Indeed, Section 2(a) of A.M. No. 02-11-10-SC precludes the son from impugning the subsequent marriage. But in the case at bar, both Zorayda and Adib have legal personalities to file an action for nullity. Albeit the Supreme Court Resolution governs marriages celebrated under the Family Code, such is prospective in application and does not apply to cases already commenced before March 15, 2003.[58]

Zorayda and Adib filed the case for declaration of nullity of Estrellita's marriage in November 1994.

While the Family Code is silent with respect to the proper party who can file a petition for declaration of nullity of marriage prior to A.M. No. 02-11-10-SC, it has been held that in a void marriage, in which no marriage has taken place and cannot be the source of rights, any interested party may attack the marriage directly or collaterally without prescription, which may be filed even beyond the lifetime of the parties to the marriage.[59] Since A.M. No. 02-11-10-SC does not apply, Adib, as one of the children of the deceased who has property rights as an heir, is likewise considered to be the real party in interest in the suit he and his mother had filed since both of them stand to be benefited or injured by the judgment in the suit.[60]

Since our Philippine laws protect the marital union of a couple, they should be interpreted in a way that would preserve their respective rights which include striking down bigamous marriages. We thus find the CA Decision correctly rendered.

WHEREFORE, the petition is DENIED. The assailed August 17, 2004 Decision of the Court of Appeals in CA-GR. CV No. 61762, as well as its subsequent Resolution issued on September 13, 2005, are hereby AFFIRMED.

SO ORDERED.

Corana, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] CA rollo, pp. 129-142; penned by Associate Justice Aurora Santiago-Lagman and concurred in by Associate Justices Portia Alino-Hormachuelos and Rebecca do Guia-Salvador.

[2] Id. at 205-210.

[3] Records, p. 103.

[4] Id. at 13.

[5] Namely Jamila, Jacob, Amina, Macapanton, Ysmael, Soraya, Adel and Aquil.

[6] Rollo, pp. 54-60.

[7] Id. at 57.

[8] Records, pp. 14-15, 25-26.

[9] Id. at 25-26.

[10] Id. at 17, 29.

[11] Id. at 32-38.

[12] Id. at 38-40.

[13] Id. at 109-111, 123.

[14] Id. at 143.

[15] Id. at 151, 153, 173, 174.

[16] Id. at 213.

[17] Id. at 176.

[18] Id. at 230-236.

[19] *Tamano v. Hon. Ortiz*, 353 Phil. 775 (1998).

[20] Records, p. 237. The trial court erred in stating that 'let reception of plaintiff's evidence herein be set on June 26, 1997 x x x' when in fact, it was already defendant's turn.

[21] Id. at 240.

[22] Id. at 242-244.

[23] Id. at 315-318.

[24] Id. at 319-322.

[25] Rollo, pp. 69-76.

[26] Records, p. 367.

[27] Id. at 354-362.

[28] Rollo, pp. 77-82; penned by Judge Elsa de Guzman.

[29] FAMILY CODE, Article 35. The following marriages shall be void from the beginning:

x x x x

(4) Those bigamous or polygamous marriages not falling under Article 41;

x x x x

NEW Civil CODE, Article 83. Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:

(1) The first marriage was annulled or dissolved;

x x x x

[30] Rollo, p. 80.

[31] CA rollo, pp. 17-41.

[32] Rollo, pp. 34-46.

[33] Id. at 48-53.

[34] RULES OF Court, Rule 9, Section 3(e) Where no defaults allowed. — If the defending party in an action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the prosecuting attorney to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated.

[35] FAMILY CODE, Article 48. In all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.

In the cases referred to in the preceding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment.

[36] 457 Phil 463 (2003).

[37] Rollo, p. 217.

[38] Id. at 133, 135.

[39] Inadvertently referred to as A.M. No. 00-11-01-SC.

[40] Supra note 36.

[41] Id. at 468.

[42] Sps. Diaz v, Diaz, 387 Phil 314, 334 (2000).

[43] RULES OF COURT, Rule 65, Section 7.

[44] Dated March 4, 2003, with an effectivity date of March 15, 2003.

[45] Records, p. 30.

[46] Id, at 56.

[47] 326 Phil 169(1996).

[48] Id. at 181.

[49] Supra note 12, where Zorayda's disbarment complaint stated that the marriage was conducted under both rites.

[50] Malang v. Judge Moson, 398 Phil. 41 (2000).

[51] An Act Authorizing For A Period Of Twenty Years Divorce Among Moslems Residing In Non-Christian Provinces In Accordance With Moslem Customs and Practices (approved on June 18, 1949), Section 1 of which provides:

Section 1. For a period of twenty years from the date of the approval of this Act, divorce among Moslems residing in non-Christian provinces shall be recognized and be governed by Moslem customs and practices.

[52] Under Articles 45-57.

[53] Tamano v. Ortiz, supra note 19 at 781.

[54] Malang v. Judge Moson, supra note 50 at 57.

[55] EXECUTIVE Order No. 209, which took effect on August 3, 1988.

[56] Sec. 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.

[57] Enrico v. Heirs of Sps. Eulogio B. Medinaceli and Trinidad Catli-Medinaceli, G.R. No. 173614, September 28, 2007, 534 SCRA 418, 429, citing Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders.

[58] Carlos v. Sandoval, G.R. No. 179922, December 16, 2008, 574 SCRA 116, 132 citing Enrico v. Heirs of Sps. Eulogio B. Medinaceli and Trinidad Carli-Medmaceli, supra note 57 at 428.

[59] Niñal v. Bayadog, 384 Phil 661, 673 (2000).

[60] RULES OF COURT, Rule 3, Section 2.

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