

DANILO A. AURELIO, PETITIONER, VS. VIDA MA. CORAZON P. AURELIO, RESPONDENT.

G.R. No. 175367. June 06, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari, [1] under Rule 45 of the Rules of Court, seeking to set aside the October 6, 2005 Decision [2] and October 26, 2006 Resolution, [3] of the Court of Appeals (CA), in CA-G.R. SP No. 82238.

The facts of the case are as follows:

Petitioner Danilo A. Aurelio and respondent Vida Ma. Corazon Aurelio were married on March 23, 1988. They have two sons, namely: Danilo Miguel and Danilo Gabriel.

On May 9, 2002, respondent filed with the Regional Trial Court (RTC) of Quezon City, Branch 94, a Petition for Declaration of Nullity of Marriage. [4] In her petition, respondent alleged that both she and petitioner were psychologically incapacitated of performing and complying with their respective essential marital obligations. In addition, respondent alleged that such state of psychological incapacity was present prior and even during the time of the marriage ceremony. Hence, respondent prays that her marriage be declared null and void under Article 36 of the Family Code which provides:

Article 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void, even if such incapacity becomes manifest only after its solemnization.

As succinctly summarized by the CA, contained in respondent's petition are the following allegations, to wit:

x x x The said petition alleged, inter alia, that both husband and wife are psychologically incapable of performing and complying with their essential marital obligations. Said psychological incapacity was existing prior and at the time of the marriage. Said psychological incapacity was manifested by lack of financial support from the husband; his lack of drive and incapacity to discern the plight of his working wife. The husband exhibited consistent jealousy and distrust towards his wife. His moods alternated between hostile defiance and contrition. He refused to assist in the maintenance of the family. He refused to foot the household bills and provide for his family's needs. He exhibited arrogance. He was completely insensitive to the feelings of his wife. He liked to humiliate and embarrass his wife even in the presence of their children.

Vida Aurelio, on the other hand, is effusive and displays her feelings openly and freely. Her feelings change very quickly - from joy to fury to misery to despair, depending on her day-to-day experiences. Her tolerance for boredom was very low. She was emotionally immature; she cannot stand frustration or disappointment. She cannot delay to gratify her needs. She gets upset when she cannot get what she wants. Self-indulgence lifts her spirits immensely. Their hostility towards each other distorted their relationship. Their incapacity to accept and fulfill the essential obligations of marital life led to the breakdown of their marriage. Private respondent

manifested psychological aversion to cohabit with her husband or to take care of him. The psychological make-up of private respondent was evaluated by a psychologist, who found that the psychological incapacity of both husband and wife to perform their marital obligations is grave, incorrigible and incurable. Private respondent suffers from a Histrionic Personality Disorder with Narcissistic features; whereas petitioner suffers from passive aggressive (negativistic) personality disorder that renders him immature and irresponsible to assume the normal obligations of a marriage. [5]

On November 8, 2002, petitioner filed a Motion to Dismiss [6] the petition. Petitioner principally argued that the petition failed to state a cause of action and that it failed to meet the standards set by the Court for the interpretation and implementation of Article 36 of the Family Code.

On January 14, 2003, the RTC issued an Order [7] denying petitioner's motion.

On February 21, 2003, petitioner filed a Motion for Reconsideration, which was, however, denied by the RTC in an Order [8] dated December 17, 2003. In denying petitioner's motion, the RTC ruled that respondent's petition for declaration of nullity of marriage complied with the requirements of the Molina doctrine, and whether or not the allegations are meritorious would depend upon the proofs presented by both parties during trial, to wit:

A review of the petition shows that it observed the requirements in Republic vs. Court of Appeals (268 SCRA 198), otherwise known as the Molina Doctrine. There was allegation of the root cause of the psychological incapacity of both the petitioner and the respondent contained in paragraphs 12 and 13 of the petition. The manifestation of juridical antecedence was alleged in paragraphs 5 and 6 of the petition. The allegations constituting the gravity of psychological incapacity were alleged in paragraph 9 (a to l) of the petition. The incurability was alleged in paragraph 10 of the petition. Moreover, the clinical finding of incurability was quoted in paragraph 15 of the petition. There is a cause of action presented in the petition for the nullification of marriage under Article 36 of the Family Code.

Whether or not the allegations are meritorious depends upon the proofs to be presented by both parties. This, in turn, will entail the presentation of evidence which can only be done in the hearing on the merits of the case. If the Court finds that there are (sic) preponderance of evidence to sustain a nullification, then the cause of the petition shall fail. Conversely, if it finds, through the evidence that will be presented during the hearing on the merits, that there are sufficient proofs to warrant nullification, the Court shall declare its nullity. [9]

On February 16, 2004, petitioner appealed the RTC decision to the CA via petition for certiorari [10] under Rule 65 of the Rules of Court.

On October 6, 2005, the CA rendered a Decision dismissing the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, [the] instant petition is DISMISSED.

SO ORDERED. [11]

In a Resolution dated October 26, 2004, the CA dismissed petitioner's motion for reconsideration.

In its Decision, the CA affirmed the ruling of the RTC and held that respondent's complaint for declaration of nullity of marriage when scrutinized in juxtaposition with Article 36 of the Family Code and the Molina doctrine revealed the existence of a sufficient cause of action.

Hence, herein petition, with petitioner raising two issues for this Court's consideration, to wit:

I.

WHETHER OR NOT THE COURT OF APPEALS VIOLATED THE APPLICABLE LAW AND JURISPRUDENCE WHEN IT HELD THAT THE ALLEGATIONS CONTAINED IN THE PETITION FOR

DECLARATION OF THE NULLITY OF MARRIAGE ARE SUFFICIENT FOR THE COURT TO DECLARE THE NULLITY OF THE MARRIAGE BETWEEN VIDA AND DANILO.

II.

WHETHER OR NOT THE COURT OF APPEALS VIOLATED THE APPLICABLE LAW AND JURISPRUDENCE WHEN IT DENIED PETITIONER'S ACTION FOR CERTIORARI DESPITE THE FACT THAT THE DENIAL OF HIS MOTION TO DISMISS BY THE TRIAL COURT IS PATENTLY AND UTTERLY TAINTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION; AND THAT APPEAL IN DUE COURSE IS NOT A PLAIN, ADEQUATE OR SPEEDY REMEDY UNDER THE CIRCUMSTANCES. [12]

Before anything else, it bears to point out that had respondent's complaint been filed after March 15, 2003, this present petition would have been denied since Supreme Court Administrative Matter No. 02-11-10 [13] prohibits the filing of a motion to dismiss in actions for annulment of marriage. Be that as it may, after a circumspect review of the arguments raised by petitioner herein, this Court finds that the petition is not meritorious.

In *Republic v. Court of Appeals*, [14] this Court created the Molina guidelines to aid the courts in the disposition of cases involving psychological incapacity, to wit:

- (1) Burden of proof to show the nullity of the marriage belongs to the plaintiff.
- (2) The root cause of the psychological incapacity must be: (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision.
- (3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage.
- (4) Such incapacity must also be shown to be medically or clinically permanent or incurable.
- (5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage.
- (6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife, as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.
- (7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts.
- (8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. [15]

This Court, pursuant to Supreme Court Administrative Matter No. 02-11-10, has modified the above pronouncements, particularly Section 2(d) thereof, stating that the certification of the Solicitor General required in the Molina case is dispensed with to avoid delay. Still, Article 48 of the Family Code mandates that the appearance of the prosecuting attorney or fiscal assigned be 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. [16]

Petitioner anchors his petition on the premise that the allegations contained in respondent's petition are insufficient to support a declaration of nullity of marriage based on psychological incapacity. Specifically, petitioner contends that the petition failed to comply with three of the Molina guidelines, namely: that the root

cause of the psychological incapacity must be alleged in the complaint; that such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage; and that the non-complied marital obligation must be stated in the petition. [17]

First, contrary to petitioner's assertion, this Court finds that the root cause of psychological incapacity was stated and alleged in the complaint. We agree with the manifestation of respondent that the family backgrounds of both petitioner and respondent were discussed in the complaint as the root causes of their psychological incapacity. Moreover, a competent and expert psychologist clinically identified the same as the root causes.

Second, the petition likewise alleged that the illness of both parties was of such grave a nature as to bring about a disability for them to assume the essential obligations of marriage. The psychologist reported that respondent suffers from Histrionic Personality Disorder with Narcissistic Features. Petitioner, on the other hand, allegedly suffers from Passive Aggressive (Negativistic) Personality Disorder. The incapacity of both parties to perform their marital obligations was alleged to be grave, incorrigible and incurable.

Lastly, this Court also finds that the essential marital obligations that were not complied with were alleged in the petition. As can be easily gleaned from the totality of the petition, respondent's allegations fall under Article 68 of the Family Code which states that "the husband and the wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support."

It bears to stress that whether or not petitioner and respondent are psychologically incapacitated to fulfill their marital obligations is a matter for the RTC to decide at the first instance. A perusal of the Molina guidelines would show that the same contemplate a situation wherein the parties have presented their evidence, witnesses have testified, and that a decision has been reached by the court after due hearing. Such process can be gleaned from guidelines 2, 6 and 8, which refer to a decision rendered by the RTC after trial on the merits. It would certainly be too burdensome to ask this Court to resolve at first instance whether the allegations contained in the petition are sufficient to substantiate a case for psychological incapacity. Let it be remembered that each case involving the application of Article 36 must be treated distinctly and judged not on the basis of a priori assumptions, predilections or generalizations but according to its own attendant facts. Courts should interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals. [18] It would thus be more prudent for this Court to remand the case to the RTC, as it would be in the best position to scrutinize the evidence as well as hear and weigh the evidentiary value of the testimonies of the ordinary witnesses and expert witnesses presented by the parties.

Given the allegations in respondent's petition for nullity of marriage, this Court rules that the RTC did not commit grave abuse of discretion in denying petitioner's motion to dismiss. By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. [19] Even assuming *arguendo* that this Court were to agree with petitioner that the allegations contained in respondent's petition are insufficient and that the RTC erred in denying petitioner's motion to dismiss, the same is merely an error of judgment correctible by appeal and not an abuse of discretion correctible by certiorari. [20]

Finally, the CA properly dismissed petitioner's petition. As a general rule, the denial of a motion to dismiss, which is an interlocutory order, is not reviewable by certiorari. Petitioner's remedy is to reiterate the grounds in his motion to dismiss, as defenses in his answer to the petition for nullity of marriage, proceed trial and, in case of an adverse decision, appeal the decision in due time. [21] The existence of that adequate remedy removed the

underpinnings of his petition for certiorari in the CA. [22]

WHEREFORE, premises considered the petition is DENIED. The October 6, 2005 Decision and October 26, 2006 Resolution of the Court of Appeals, in CA-G.R. SP No. 82238, are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 11-30.

[2] Penned by Associate Justice Arcangelita M. Romilla-Lontok, with Associate Justices Marina L. Buzon and Danilo B. Pine, concurring; id. at 31-35.

[3] Rollo pp. 36-37.

[4] Id. at 42-47.

[5] Id. at 32.

[6] Id. at 49-57.

[7] Id. at 58.

[8] Id. at 59-60.

[9] Id. at 59-60.

[10] CA rollo, pp. 2-22.

[11] Rollo, p. 35.

[12] Id at 17.

[13] A.M. No. 02-11-10-SC (RE: PROPOSED RULE ON DECLARATION OF ABSOLUTE NULLITY OF VOID MARRIAGES AND ANNULMENT OF VOIDABLE MARRIAGES)

Section 7. Motion to Dismiss. - No motion to dismiss the petition shall be allowed, except on the ground of lack of jurisdiction over the subject matter or over the parties; provided, however, that any other ground that might warrant a dismissal of the case may be raised as an affirmative defense in an answer.

[14] 335 Phil. 664 (1997).

[15] Id. at 676-679. (Emphasis supplied).

[16] Antonio v. Reyes, G.R. No. 155800, March 10, 2006, 484 SCRA 353, 375.

[17] Rollo, p. 25.

[18] Ngo Te v. Rowena Yu-Te, G.R. No. 161793, February 13, 2009, 579 SCRA 193, 228.

[19] Solvic Industrial Corporation v. National Labor Relations Commission, G.R. No. 125548, September 25, 1998, 296 SCRA 432, 44 (Italics supplied); Tomas Claudio Memorial College, Inc. v. Court of Appeals, 374 Phil 859, 864 (1999).

[20] Philippine National Bank v. Sanao Marketing Corporation, G.R. No. 153951, July 29, 2005, 465 SCRA 287,

306.

[21] *Harrison Foundry Machinery v. Harrison Foundry Workers' Association*, No. L-18432, June 29, 1963, 8 SCRA 430, 434.

[22] Rules of Court, Rule 65, Sec. 1.

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