

**JUAN DE DIOS CARLOS, PETITIONER, VS. FELICIDAD SANDOVAL,
ALSO KNOWN AS FELICIDAD S. VDA. DE CARLOS OR FELICIDAD
SANDOVAL CARLOS OR FELICIDAD SANDOVAL VDA. DE CARLOS,
AND TEOFILO...**

G.R. No. 179922. December 16, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

ONLY a spouse can initiate an action to sever the marital bond for marriages solemnized during the effectivity of the Family Code, except cases commenced prior to March 15, 2003. The nullity and annulment of a marriage cannot be declared in a judgment on the pleadings, summary judgment, or confession of judgment.

We pronounce these principles as We review on certiorari the Decision[1] of the Court of Appeals (CA) which reversed and set aside the summary judgment[2] of the Regional Trial Court (RTC) in an action for declaration of nullity of marriage, status of a child, recovery of property, reconveyance, sum of money, and damages.

The Facts

The events that led to the institution of the instant suit are unveiled as follows:

Spouses Felix B. Carlos and Felipa Elemia died intestate. They left six parcels of land to their compulsory heirs, Teofilo Carlos and petitioner Juan De Dios Carlos. The lots are particularly described as follows:

Parcel No. 1

Lot No. 162 of the MUNTINLUPA ESTATE SUBDIVISION, Case No. 6137 of the Court of Land Registration.

Exemption from the provisions of Article 567 of the Civil Code is specifically reserved.

Area: 1 hectare, 06 ares, 07 centares.

Parcel No. 2

A parcel of land (Lot No. 159-B), being a portion of Lot 159, situated in the Bo. of Alabang, Municipality of Muntinlupa, Province of Rizal, x x x containing an area of Thirteen Thousand Four Hundred Forty One (13,441) square meters.

Parcel No. 3

A parcel of land (Lot 159-B-2 of the subd. plan [LRC] Psd-325903, approved as a non-subd. project), being a portion of Lot 159-B [LRC] Psd- Alabang, Mun. of Muntinlupa, Metro Manila, Island of Luzon. Bounded on the NE, points 2 to 4 by Lot 155, Muntinlupa Estate; on the SE, point 4 to 5 by Lot 159-B-5; on the S, points 5 to 1 by Lot 159-B-3; on the W, points 1 to 2 by Lot 159-B-1 (Road widening) all of the subd. plan, containing an area of ONE HUNDRED THIRTY (130) SQ. METERS, more or less.

PARCEL No. 4

A parcel of land (Lot 28-C of the subd. plan Psd-13-007090, being a portion of Lot 28, Muntinlupa Estate, L.R.C. Rec. No. 6137), situated in the Bo. of Alabang, Mun. of Muntinlupa, Metro Manila. Bounded on the NE, along lines 1-2 by Lot 27, Muntinlupa Estate; on the East & SE, along lines 2 to 6 by Mangangata River; and on the West., along line 6-1, by Lot 28-B of the subd. plan x x x containing an area of ONE THUSAND AND SEVENTY-SIX (1,076) SQUARE METERS.

PARCEL No. 5

PARCELA DE TERRENO No. 50, Manzana No. 18, de la subd. de Solocan. Linda por el NW, con la parcela 49; por el NE, con la parcela 36; por el SE, con la parcela 51; y por el SW, con la calle Dos Castillas. Partiendo de un punto marcado 1 en el plano, el cual se halla a S. gds. 01'W, 72.50 mts. Desde el punto 1 de esta manzana, que es un mojon de concreto de la Ciudad de Manila, situado on el esquina E. que forman las Calles Laong Laan y Dos. Castillas, continiendo un extension superficial de CIENTO CINCUENTA (150) METROS CUADRADOS.

PARCEL No. 6

PARCELA DE TERRENO No. 51, Manzana No. 18, de la subd. De Solocon. Linda por el NW, con la parcela 50; por el NE, con la parcela 37; por el SE, con la parcela 52; por el SW, con la Calle Dos Castillas. Partiendo de un punto Marcado 1 en el plano, el cual se halla at S. 43 gds. 01'E, 82.50 mts. Desde el punto 1 de esta manzana, que es un mojon de concreto de la Ciudad de Manila, situado on el esquina E. que forman las Calles Laong Laan y Dos. Castillas, continiendo una extension superficial de CIENTO CINCUENTA (150) METROS CUADRADOS.[3]

During the lifetime of Felix Carlos, he agreed to transfer his estate to Teofilo. The agreement was made in order to avoid the payment of inheritance taxes. Teofilo, in turn, undertook to deliver and turn over the share of the other legal heir, petitioner Juan De Dios Carlos.

Eventually, the first three (3) parcels of land were transferred and registered in the name of Teofilo. These three (3) lots are now covered by Transfer Certificate of Title (TCT) No. 234824 issued by the Registry of Deeds of Makati City; TCT No. 139061 issued by the Registry of Deeds of Makati City; and TCT No. 139058 issued by the Registry of Deeds of Makati City.

Parcel No. 4 was registered in the name of petitioner. The lot is now covered by TCT No. 160401 issued by the Registry of Deeds of Makati City.

On May 13, 1992, Teofilo died intestate. He was survived by respondents Felicidad and their son, Teofilo Carlos II (Teofilo II). Upon Teofilo's death, Parcel Nos. 5 & 6 were registered in the name of respondent Felicidad and co-respondent, Teofilo II. The said two (2) parcels of land are covered by TCT Nos. 219877 and 210878, respectively, issued by the Registry of Deeds of Manila.

In 1994, petitioner instituted a suit against respondents before the RTC in Muntinlupa City, docketed as Civil Case No. 94-1964. In the said case, the parties submitted and caused the approval of a partial compromise agreement. Under the compromise, the parties acknowledged their respective shares in the proceeds from the sale of a portion of the first parcel of land. This includes the remaining 6,691-square-meter portion of said land.

On September 17, 1994, the parties executed a deed of extrajudicial partition, dividing the remaining land of the first parcel between them.

Meanwhile, in a separate case entitled *Rillo v. Carlos*,^[4] 2,331 square meters of the second parcel of land were adjudicated in favor of plaintiffs Rillo. The remaining 10,000-square meter portion was later divided between

petitioner and respondents.

The division was incorporated in a supplemental compromise agreement executed on August 17, 1994, with respect to Civil Case No. 94-1964. The parties submitted the supplemental compromise agreement, which was approved accordingly.

Petitioner and respondents entered into two more contracts in August 1994. Under the contracts, the parties equally divided between them the third and fourth parcels of land.

In August 1995, petitioner commenced an action, docketed as Civil Case No. 95-135, against respondents before the court a quo with the following causes of action: (a) declaration of nullity of marriage; (b) status of a child; (c) recovery of property; (d) reconveyance; and (e) sum of money and damages. The complaint was raffled to Branch 256 of the RTC in Muntinlupa.

In his complaint, petitioner asserted that the marriage between his late brother Teofilo and respondent Felicidad was a nullity in view of the absence of the required marriage license. He likewise maintained that his deceased brother was neither the natural nor the adoptive father of respondent Teofilo Carlos II.

Petitioner likewise sought the avoidance of the contracts he entered into with respondent Felicidad with respect to the subject real properties. He also prayed for the cancellation of the certificates of title issued in the name of respondents. He argued that the properties covered by such certificates of title, including the sums received by respondents as proceeds, should be reconveyed to him.

Finally, petitioner claimed indemnification as and by way of moral and exemplary damages, attorney's fees, litigation expenses, and costs of suit.

On October 16, 1995, respondents submitted their answer. They denied the material averments of petitioner's complaint. Respondents contended that the dearth of details regarding the requisite marriage license did not invalidate Felicidad's marriage to Teofilo. Respondents declared that Teofilo II was the illegitimate child of the deceased Teofilo Carlos with another woman.

On the grounds of lack of cause of action and lack of jurisdiction over the subject matter, respondents prayed for the dismissal of the case before the trial court. They also asked that their counterclaims for moral and exemplary damages, as well as attorney's fees, be granted.

But before the parties could even proceed to pre-trial, respondents moved for summary judgment. Attached to the motion was the affidavit of the justice of the peace who solemnized the marriage. Respondents also submitted the Certificate of Live Birth of respondent Teofilo II. In the certificate, the late Teofilo Carlos and respondent Felicidad were designated as parents.

On January 5, 1996, petitioner opposed the motion for summary judgment on the ground of irregularity of the contract evidencing the marriage. In the same breath, petitioner lodged his own motion for summary judgment. Petitioner presented a certification from the Local Civil Registrar of Calumpit, Bulacan, certifying that there is no record of birth of respondent Teofilo II.

Petitioner also incorporated in the counter-motion for summary judgment the testimony of respondent Felicidad in another case. Said testimony was made in Civil Case No. 89-2384, entitled *Carlos v. Gorospe*, before the RTC Branch 255, Las Piñas. In her testimony, respondent Felicidad narrated that co-respondent Teofilo II is her child with Teofilo.[5]

Subsequently, the Office of the City Prosecutor of Muntinlupa submitted to the trial court its report and manifestation, discounting the possibility of collusion between the parties.

RTC and CA Dispositions

On April 8, 1996, the RTC rendered judgment, disposing as follows:

WHEREFORE, premises considered, defendant's (respondent's) Motion for Summary Judgment is hereby denied. Plaintiff's (petitioner's) Counter-Motion for Summary Judgment is hereby granted and summary judgment is hereby rendered in favor of plaintiff as follows:

- Declaring the marriage between defendant Felicidad Sandoval and Teofilo Carlos solemnized at Silang, Cavite on May 14, 1962, evidenced by the Marriage Certificate submitted in this case, null and void ab initio for lack of the requisite marriage license;
- Declaring that the defendant minor, Teofilo S. Carlos II, is not the natural, illegitimate, or legally adopted child of the late Teofilo E. Carlos;
- Ordering defendant Sandoval to pay and restitute to plaintiff the sum of P18,924,800.00 together with the interest thereon at the legal rate from date of filing of the instant complaint until fully paid;
- Declaring plaintiff as the sole and exclusive owner of the parcel of land, less the portion adjudicated to plaintiffs in Civil Case No. 11975, covered by TCT No. 139061 of the Register of Deeds of Makati City, and ordering said Register of Deeds to cancel said title and to issue another title in the sole name of plaintiff herein;
- Declaring the Contract, Annex "K" of complaint, between plaintiff and defendant Sandoval null and void, and ordering the Register of Deeds of Makati City to cancel TCT No. 139058 in the name of Teofilo Carlos, and to issue another title in the sole name of plaintiff herein;
- Declaring the Contract, Annex M of the complaint, between plaintiff and defendant Sandoval null and void;
- Ordering the cancellation of TCT No. 210877 in the names of defendant Sandoval and defendant minor Teofilo S. Carlos II and ordering the Register of Deeds of Manila to issue another title in the exclusive name of plaintiff herein;
- Ordering the cancellation of TCT No. 210878 in the name of defendant Sandoval and defendant Minor Teofilo S. Carlos II and ordering the Register of Deeds of Manila to issue another title in the sole name of plaintiff herein.

Let this case be set for hearing for the reception of plaintiff's evidence on his claim for moral damages, exemplary damages, attorney's fees, appearance fees, and litigation expenses on June 7, 1996 at 1:30 o'clock in the afternoon.

SO ORDERED.[6]

Dissatisfied, respondents appealed to the CA. In the appeal, respondents argued, inter alia, that the trial court acted without or in excess of jurisdiction in rendering summary judgment annulling the marriage of Teofilo, Sr. and Felicidad and in declaring Teofilo II as not an illegitimate child of Teofilo, Sr.

On October 15, 2002, the CA reversed and set aside the RTC ruling, disposing as follows:

WHEREFORE, the summary judgment appealed from is REVERSED and SET ASIDE and in lieu thereof, a new one is entered REMANDING the case to the court of origin for further proceedings.

SO ORDERED.[7]

The CA opined:

We find the rendition of the herein appealed summary judgment by the court a quo contrary to law and public policy as ensconced in the aforesaid safeguards. The fact that it was appellants who first sought summary

judgment from the trial court, did not justify the grant thereof in favor of appellee. Not being an action "to recover upon a claim" or "to obtain a declaratory relief," the rule on summary judgment apply (sic) to an action to annul a marriage. The mere fact that no genuine issue was presented and the desire to expedite the disposition of the case cannot justify a misinterpretation of the rule. The first paragraph of Article 88 and 101 of the Civil Code expressly prohibit the rendition of decree of annulment of a marriage upon a stipulation of facts or a confession of judgment. Yet, the affidavits annexed to the petition for summary judgment practically amount to these methods explicitly proscribed by the law.

We are not unmindful of appellee's argument that the foregoing safeguards have traditionally been applied to prevent collusion of spouses in the matter of dissolution of marriages and that the death of Teofilo Carlos on May 13, 1992 had effectively dissolved the marriage herein impugned. The fact, however, that appellee's own brother and appellant Felicidad Sandoval lived together as husband and wife for thirty years and that the annulment of their marriage is the very means by which the latter is sought to be deprived of her participation in the estate left by the former call for a closer and more thorough inquiry into the circumstances surrounding the case. Rather than the summary nature by which the court a quo resolved the issues in the case, the rule is to the effect that the material facts alleged in the complaint for annulment of marriage should always be proved. Section 1, Rule 19 of the Revised Rules of Court provides:

"Section 1. Judgment on the pleadings. – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. But in actions for annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved." (Underscoring supplied)

Moreover, even if We were to sustain the applicability of the rules on summary judgment to the case at bench, Our perusal of the record shows that the finding of the court a quo for appellee would still not be warranted. While it may be readily conceded that a valid marriage license is among the formal requisites of marriage, the absence of which renders the marriage void ab initio pursuant to Article 80(3) in relation to Article 58 of the Civil Code the failure to reflect the serial number of the marriage license on the marriage contract evidencing the marriage between Teofilo Carlos and appellant Felicidad Sandoval, although irregular, is not as fatal as appellee represents it to be. Aside from the dearth of evidence to the contrary, appellant Felicidad Sandoval's affirmation of the existence of said marriage license is corroborated by the following statement in the affidavit executed by Godofredo Fojas, then Justice of the Peace who officiated the impugned marriage, to wit:

"That as far as I could remember, there was a marriage license issued at Silang, Cavite on May 14, 1962 as basis of the said marriage contract executed by Teofilo Carlos and Felicidad Sandoval, but the number of said marriage license was inadvertently not placed in the marriage contract for the reason that it was the Office Clerk who filled up the blanks in the Marriage Contract who in turn, may have overlooked the same."

Rather than the inferences merely drawn by the trial court, We are of the considered view that the veracity and credibility of the foregoing statement as well as the motivations underlying the same should be properly threshed out in a trial of the case on the merits.

If the non-presentation of the marriage contract – the primary evidence of marriage – is not proof that a marriage did not take place, neither should appellants' non-presentation of the subject marriage license be taken as proof that the same was not procured. The burden of proof to show the nullity of the marriage, it must be emphasized, rests upon the plaintiff and any doubt should be resolved in favor of the validity of the marriage.

Considering that the burden of proof also rests on the party who disputes the legitimacy of a particular party, the same may be said of the trial court's rejection of the relationship between appellant Teofilo Carlos II and his putative father on the basis of the inconsistencies in appellant Felicidad Sandoval's statements. Although it had effectively disavowed appellant's prior claims regarding the legitimacy of appellant Teofilo Carlos II, the

avermert in the answer that he is the illegitimate son of appellee's brother, to Our mind, did not altogether foreclose the possibility of the said appellant's illegitimate filiation, his right to prove the same or, for that matter, his entitlement to inheritance rights as such.

Without trial on the merits having been conducted in the case, We find appellee's bare allegation that appellant Teofilo Carlos II was merely purchased from an indigent couple by appellant Felicidad Sandoval, on the whole, insufficient to support what could well be a minor's total forfeiture of the rights arising from his putative filiation. Inconsistent though it may be to her previous statements, appellant Felicidad Sandoval's declaration regarding the illegitimate filiation of Teofilo Carlos II is more credible when considered in the light of the fact that, during the last eight years of his life, Teofilo Carlos allowed said appellant the use of his name and the shelter of his household. The least that the trial court could have done in the premises was to conduct a trial on the merits in order to be able to thoroughly resolve the issues pertaining to the filiation of appellant Teofilo Carlos II.[8]

On November 22, 2006, petitioner moved for reconsideration and for the inhibition of the ponente, Justice Rebecca De Guia-Salvador. The CA denied the twin motions.

Issues

In this petition under Rule 45, petitioner hoists the following issues:

- That, in reversing and setting aside the Summary Judgment under the Decision, Annex A hereof, and in denying petitioner's Motion for reconsideration under the Resolution, Annex F hereof, with respect to the nullity of the impugned marriage, petitioner respectfully submits that the Court of Appeals committed a grave reversible error in applying Articles 88 and 101 of the Civil Code, despite the fact that the circumstances of this case are different from that contemplated and intended by law, or has otherwise decided a question of substance not theretofore decided by the Supreme Court, or has decided it in a manner probably not in accord with law or with the applicable decisions of this Honorable Court;
- That in setting aside and reversing the Summary Judgment and, in lieu thereof, entering another remanding the case to the court of origin for further proceedings, petitioner most respectfully submits that the Court of Appeals committed a serious reversible error in applying Section 1, Rule 19 (now Section 1, Rule 34) of the Rules of Court providing for judgment on the pleadings, instead of Rule 35 governing Summary Judgments;
- That in reversing and setting aside the Summary Judgment and, in lieu thereof, entering another remanding the case to the court of origin for further proceedings, petitioner most respectfully submits that the Court of Appeals committed grave abuse of discretion, disregarded judicial admissions, made findings on ground of speculations, surmises, and conjectures, or otherwise committed misapplications of the laws and misapprehension of the facts.[9] (Underscoring supplied)

Essentially, the Court is tasked to resolve whether a marriage may be declared void ab initio through a judgment on the pleadings or a summary judgment and without the benefit of a trial. But there are other procedural issues, including the capacity of one who is not a spouse in bringing the action for nullity of marriage.

Our Ruling

I. The grounds for declaration of absolute nullity of marriage must be proved. Neither judgment on the pleadings nor summary judgment is allowed. So is confession of judgment disallowed.

Petitioner faults the CA in applying Section 1, Rule 19[10] of the Revised Rules of Court, which provides:

SECTION 1. Judgment on the pleadings. – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. But in actions for annulment of marriage or for legal separation, the material facts alleged in the

complaint shall always be proved.

He argues that the CA should have applied Rule 35 of the Rules of Court governing summary judgment, instead of the rule on judgment on the pleadings.

Petitioner is misguided. The CA did not limit its finding solely within the provisions of the Rule on judgment on the pleadings. In disagreeing with the trial court, the CA likewise considered the provisions on summary judgments, to wit:

Moreover, even if We are to sustain the applicability of the rules on summary judgment to the case at bench, Our perusal of the record shows that the finding of the court a quo for appellee would still not be warranted. x x x[11]

But whether it is based on judgment on the pleadings or summary judgment, the CA was correct in reversing the summary judgment rendered by the trial court. Both the rules on judgment on the pleadings and summary judgments have no place in cases of declaration of absolute nullity of marriage and even in annulment of marriage.

With the advent of A.M. No. 02-11-10-SC, known as "Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages," the question on the application of summary judgments or even judgment on the pleadings in cases of nullity or annulment of marriage has been stamped with clarity. The significant principle laid down by the said Rule, which took effect on March 15, 2003[12] is found in Section 17, viz.:

SEC. 17. Trial. – (1) The presiding judge shall personally conduct the trial of the case. No delegation of evidence to a commissioner shall be allowed except as to matters involving property relations of the spouses.

(2) The grounds for declaration of absolute nullity or annulment of marriage must be proved. No judgment on the pleadings, summary judgment, or confession of judgment shall be allowed. (Underscoring supplied)

Likewise instructive is the Court's pronouncement in *Republic v. Sandiganbayan*. [13] In that case, We excluded actions for nullity or annulment of marriage from the application of summary judgments.

Prescinding from the foregoing discussion, save for annulment of marriage or declaration of its nullity or for legal separation, summary judgment is applicable to all kinds of actions. [14] (Underscoring supplied)

By issuing said summary judgment, the trial court has divested the State of its lawful right and duty to intervene in the case. The participation of the State is not terminated by the declaration of the public prosecutor that no collusion exists between the parties. The State should have been given the opportunity to present controverting evidence before the judgment was rendered. [15]

Both the Civil Code and the Family Code ordain that the court should order the prosecuting attorney to appear and intervene for the State. It is at this stage when the public prosecutor sees to it that there is no suppression of evidence. Concomitantly, even if there is no suppression of evidence, the public prosecutor has to make sure that the evidence to be presented or laid down before the court is not fabricated.

To further bolster its role towards the preservation of marriage, the Rule on Declaration of Absolute Nullity of Void Marriages reiterates the duty of the public prosecutor, viz.:

SEC. 13. Effect of failure to appear at the pre-trial. – (a) x x x

(b) x x x If there is no collusion, the court shall require the public prosecutor to intervene for the State during the trial on the merits to prevent suppression or fabrication of evidence. (Underscoring supplied)

Truly, only the active participation of the public prosecutor or the Solicitor General will ensure that the interest of

the State is represented and protected in proceedings for declaration of nullity of marriages by preventing the fabrication or suppression of evidence.[16]

II. A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or wife. Exceptions: (1) Nullity of marriage cases commenced before the effectivity of A.M. No. 02-11-10 -SC; and (2) Marriages celebrated during the effectivity of the Civil Code.

Under the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, the petition for declaration of absolute nullity of marriage may not be filed by any party outside of the marriage. The Rule made it exclusively a right of the spouses by stating:

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. (Underscoring supplied)

Section 2(a) of the Rule makes it the sole right of the husband or the wife to file a petition for declaration of absolute nullity of void marriage. The rationale of the Rule is enlightening, viz.:

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.[17] (Underscoring supplied)

The new Rule recognizes that the husband and the wife are the sole architects of a healthy, loving, peaceful marriage. They are the only ones who can decide when and how to build the foundations of marriage. The spouses alone are the engineers of their marital life. They are simultaneously the directors and actors of their matrimonial true-to-life play. Hence, they alone can and should decide when to take a cut, but only in accordance with the grounds allowed by law.

The innovation incorporated in A.M. No. 02-11-10-SC sets forth a demarcation line between marriages covered by the Family Code and those solemnized under the Civil Code. The Rule extends only to marriages entered into during the effectivity of the Family Code which took effect on August 3, 1988.[18]

The advent of the Rule on Declaration of Absolute Nullity of Void Marriages marks the beginning of the end of the right of the heirs of the deceased spouse to bring a nullity of marriage case against the surviving spouse. But the Rule never intended to deprive the compulsory or intestate heirs of their successional rights.

While A.M. No. 02-11-10-SC declares that a petition for declaration of absolute nullity of marriage may be filed solely by the husband or the wife, it does not mean that the compulsory or intestate heirs are without any recourse under the law. They can still protect their successional right, for, as stated in the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, compulsory or intestate heirs can still question the validity of the marriage of the spouses, not in a proceeding for declaration of nullity but upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts.[19]

It is emphasized, however, that the Rule does not apply to cases already commenced before March 15, 2003 although the marriage involved is within the coverage of the Family Code. This is so, as the new Rule which became effective on March 15, 2003[20] is prospective in its application. Thus, the Court held in *Enrico v. Heirs*

of Sps. Medinaceli,[21] viz.:

As has been emphasized, A.M. No. 02-11-10-SC covers marriages under the Family Code of the Philippines, and is prospective in its application.[22] (Underscoring supplied)

Petitioner commenced the nullity of marriage case against respondent Felicidad in 1995. The marriage in controversy was celebrated on May 14, 1962. Which law would govern depends upon when the marriage took place.[23]

The marriage having been solemnized prior to the effectivity of the Family Code, the applicable law is the Civil Code which was the law in effect at the time of its celebration.[24] But the Civil Code is silent as to who may bring an action to declare the marriage void. Does this mean that any person can bring an action for the declaration of nullity of marriage?

We respond in the negative. The absence of a provision in the Civil Code cannot be construed as a license for any person to institute a nullity of marriage case. Such person must appear to be the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.[25] Elsewise stated, plaintiff must be the real party-in-interest. For it is basic in procedural law that every action must be prosecuted and defended in the name of the real party-in-interest.[26]

Interest within the meaning of the rule means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere curiosity about the question involved or a mere incidental interest. One having no material interest to protect cannot invoke the jurisdiction of the court as plaintiff in an action. When plaintiff is not the real party-in-interest, the case is dismissible on the ground of lack of cause of action.[27]

Illuminating on this point is *Amor-Catalan v. Court of Appeals*,[28] where the Court held:

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 and must be based on a cause of action. Thus, in *Niñal v. Badayog*, the Court held that the children have the personality to file the petition to declare the nullity of marriage of their deceased father to their stepmother as it affects their successional rights.

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 respondent's marriage as bigamous and void ab initio but reduced 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.[29] (Underscoring supplied)

III. The case must be remanded to determine whether or not petitioner is a real-party-in-interest to seek the declaration of nullity of the marriage in controversy.

In the case at bench, the records reveal that when Teofilo died intestate in 1992, his only surviving compulsory heirs are respondent Felicidad and their son, Teofilo II. Under the law on succession, successional rights are transmitted from the moment of death of the decedent and the compulsory heirs are called to succeed by operation of law.[30]

Upon Teofilo's death in 1992, all his property, rights and obligations to the extent of the value of the inheritance are transmitted to his compulsory heirs. These heirs were respondents Felicidad and Teofilo II, as the surviving spouse and child, respectively.

Article 887 of the Civil Code outlined who are compulsory heirs, to wit:

(1)

Legitimate children and descendants, with respect to their legitimate parents and ascendants;

(2)

In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

(3)

The widow or widower;

(4)

Acknowledged natural children, and natural children by legal fiction;

(5)

Other illegitimate children referred to in Article 287 of the Civil Code.[31]

Clearly, a brother is not among those considered as compulsory heirs. But although a collateral relative, such as a brother, does not fall within the ambit of a compulsory heir, he still has a right to succeed to the estate. Articles 1001 and 1003 of the New Civil Code provide:

ART. 1001. Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half.

ART. 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles.
(Underscoring supplied)

Indeed, only the presence of descendants, ascendants or illegitimate children excludes collateral relatives from succeeding to the estate of the decedent. The presence of legitimate, illegitimate, or adopted child or children of the deceased precludes succession by collateral relatives.[32] Conversely, if there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the decedent.[33]

If respondent Teofilo II is declared and finally proven not to be the legitimate, illegitimate, or adopted son of Teofilo, petitioner would then have a personality to seek the nullity of marriage of his deceased brother with respondent Felicidad. This is so, considering that collateral relatives, like a brother and sister, acquire successional right over the estate if the decedent dies without issue and without ascendants in the direct line.

The records reveal that Teofilo was predeceased by his parents. He had no other siblings but petitioner. Thus, if Teofilo II is finally found and proven to be not a legitimate, illegitimate, or adopted son of Teofilo, petitioner succeeds to the other half of the estate of his brother, the first half being allotted to the widow pursuant to Article 1001 of the New Civil Code. This makes petitioner a real-party-interest to seek the declaration of absolute nullity of marriage of his deceased brother with respondent Felicidad. If the subject marriage is found to be void ab initio, petitioner succeeds to the entire estate.

It bears stressing, however, that the legal personality of petitioner to bring the nullity of marriage case is contingent upon the final declaration that Teofilo II is not a legitimate, adopted, or illegitimate son of Teofilo.

If Teofilo II is proven to be a legitimate, illegitimate, or legally adopted son of Teofilo, then petitioner has no legal personality to ask for the nullity of marriage of his deceased brother and respondent Felicidad. This is based on the ground that he has no successional right to be protected, hence, does not have proper interest. For although the marriage in controversy may be found to be void from the beginning, still, petitioner would not inherit. This is because the presence of descendant, illegitimate,[34] or even an adopted child[35] excludes the collateral relatives from inheriting from the decedent.

Thus, the Court finds that a remand of the case for trial on the merits to determine the validity or nullity of the subject marriage is called for. But the RTC is strictly instructed to dismiss the nullity of marriage case for lack of cause of action if it is proven by evidence that Teofilo II is a legitimate, illegitimate, or legally adopted son of Teofilo Carlos, the deceased brother of petitioner.

IV. Remand of the case regarding the question of filiation of respondent Teofilo II is proper and in order. There is a need to vacate the disposition of the trial court as to the other causes of action before it.

Petitioner did not assign as error or interpose as issue the ruling of the CA on the remand of the case concerning the filiation of respondent Teofilo II. This notwithstanding, We should not leave the matter hanging in limbo.

This Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case.[36]

We agree with the CA that without trial on the merits having been conducted in the case, petitioner's bare allegation that respondent Teofilo II was adopted from an indigent couple is insufficient to support a total forfeiture of rights arising from his putative filiation. However, We are not inclined to support its pronouncement that the declaration of respondent Felicidad as to the illegitimate filiation of respondent Teofilo II is more credible. For the guidance of the appellate court, such declaration of respondent Felicidad should not be afforded credence. We remind the CA of the guaranty provided by Article 167 of the Family Code to protect the status of legitimacy of a child, to wit:

ARTICLE 167. The child shall be considered legitimate although the mother may have declared against its legitimacy or may have been sentenced as an adulteress. (Underscoring supplied)

It is stressed that Felicidad's declaration against the legitimate status of Teofilo II is the very act that is proscribed by Article 167 of the Family Code. The language of the law is unmistakable. An assertion by the mother against the legitimacy of her child cannot affect the legitimacy of a child born or conceived within a valid marriage.[37]

Finally, the disposition of the trial court in favor of petitioner for causes of action concerning reconveyance, recovery of property, and sum of money must be vacated. This has to be so, as said disposition was made on the basis of its finding that the marriage in controversy was null and void ab initio.

WHEREFORE, the appealed Decision is MODIFIED as follows:

- The case is REMANDED to the Regional Trial Court in regard to the action on the status and filiation of respondent Teofilo Carlos II and the validity or nullity of marriage between respondent Felicidad Sandoval and the late Teofilo Carlos;
- If Teofilo Carlos II is proven to be the legitimate, or illegitimate, or legally adopted son of the late Teofilo Carlos, the RTC is strictly INSTRUCTED to DISMISS the action for nullity of marriage for lack of cause of action;
- The disposition of the RTC in Nos. 1 to 8 of the fallo of its decision is VACATED AND SET ASIDE.

The Regional Trial Court is ORDERED to conduct trial on the merits with dispatch and to give this case priority in its calendar.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] Rollo, pp. 47-63. Dated October 15, 2002. Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Cancio C. Garcia and Bernardo P. Abesamis, concurring.

[2] Civil Case No. 95-135.

[3] Rollo, pp. 49-51.

[4] Docketed as Civil Case No. 11975, CA decision, p. 6.

[5] Rollo, p. 55.

[6] CA rollo, pp. 48-49.

[7] Id. at 63.

[8] Id. at 60-63.

[9] Rollo, pp. 24-25.

[10] Rules of Civil Procedure (1997), Rule 34, Sec. 1.

SECTION 1. Judgment on the pleadings. – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved.

[11] CA rollo, p. 61.

[12] Sec. 25. Effectivity. – This Rule shall take effect on March 15, 2003 following its publication in a newspaper of general circulation not later than March 7, 2003.

[13] G.R. No. 152154, November 18, 2003, 416 SCRA 133, citing Family Code, Arts. 48 & 60, and Roque v. Encarnacion, 96 Phil. 643 (1954).

[14] Republic v. Sandiganbayan, id. at 143.

[15] Republic v. Cuison-Melgar, G.R. No. 139676, March 31, 2006, 486 SCRA 177, citing Malcampo-Sin v. Sin, G.R. No. 137590, March 26, 2001, 355 SCRA 285, 289, and Republic v. Dagdag, G.R. No. 109975, February 9, 2001, 351 SCRA 425, 435.

[16] Id. at 187-188, citing Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508, 529, and Ancheta v. Ancheta, G.R. No. 145370, March 4, 2004, 424 SCRA 725, 740.

[17] Enrico v. Heirs of Sps. 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.

[18] Id. at 427-428, citing Modequillo v. Brava, G.R. No. 86355, May 31, 1990, 185 SCRA 766, 772. (Note in the citation omitted.)

[19] Id. at 429-430.

[20] A.M. No. 02-11-10-SC – Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

SEC. 25. Effectivity. – This Rule shall take effect on March 15, 2003 following its publication in a newspaper of general circulation not later than March 7, 2003.

[21] Supra note 17.

[22] Enrico v. Heirs of Sps. Medinaceli, id. at 428.

[23] Malang v. Moson, G.R. No. 119064, August 22, 2000, 338 SCRA 393.

[24] See Republic v. Dayot, G.R. No. 175581, and Tecson-Dayot v. Dayot, G.R. No. 179474, March 28, 2008; Alcantara v. Alcantara, G.R. No. 167746, August 28, 2007, 531 SCRA 446.

[25] Republic v. Agunoy, Sr., G.R. No. 155394, February 17, 2005, 451 SCRA 735, 746.

[26] Oco v. Limbaring, G.R. No. 161298, January 31, 2006, 481 SCRA 348.

[27] Id. at 358, citing Abella, Jr. v. Civil Service Commission, G.R. No. 152574, November 17, 2004, 442 SCRA 507, 521; Pascual v. Court of Appeals, G.R. No. 115925, August 15, 2003, 409 SCRA 105, 117; and Bank of America NT & SA v. Court of Appeals, 448 Phil. 181, 194-195 (2003); Borlongan v. Madrideo, 380 Phil. 215, 224 (2000); Mathay v. Court of Appeals, 378 Phil. 466, 482 (1999); Ralla v. Ralla, G.R. No. 78646, July 23, 1991, 199 SCRA 495, 499; Rebolledo v. Court of Appeals, G.R. No. 81123, February 28, 1989, 170 SCRA 800, 806; Chua v. Torres, G.R. No. 151900, August 30, 2005, 468 SCRA 358, citing Tan v. Court of Appeals, G.R. No. 127210, August 7, 2003, 408 SCRA 470, 475-76; citing in turn University of the Philippines Board of Regents v. Ligot-Telan, G.R. No. 110280, October 21, 1993, 227 SCRA 342, 355; Ralla v. Ralla, supra; Rebolledo v. Court of Appeals, supra; Shipside, Inc. v. Court of Appeals, G.R. No. 143377, February 20, 2001, 352 SCRA 334, 346, in turn citing Pioneer Insurance & Surety Corporation v. Court of Appeals, G.R. Nos. 84197 & 84157, July 18, 1989, 175 SCRA 668.

[28] G.R. No. 167109, February 6, 2007, 514 SCRA 607, citing RULES OF COURT, Rule 3, Sec. 2, Rule 2, Sec. 1; Niñal v. Badayog, G.R. No. 133778, March 14, 2000, 328 SCRA 122.

[29] Amor-Catalan v. Court of Appeals, id. at 614-615.

[30] Rabadilla v. Court of Appeals, G.R. No. 113725, June 29, 2000, 334 SCRA 522.

[31] Paragraphs 4 & 5 are no longer controlling. The distinctions among different classes of illegitimate children under the Civil Code have been removed. All of them fall in the category of illegitimate children, as provided under Article 165 of the Family Code:

Article 165. Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code.

[32] See Gonzales v. Court of Appeals, G.R. No. 117740, October 30, 1998, 298 SCRA 322; see also Reyes v. Sotero, G.R. No. 167405, February 16, 2006, 482 SCRA 520; Pedrosa v. Court of Appeals, G.R. No. 118680, March 5, 2001, 353 SCRA 620; Heirs of Ignacio Conti v. Court of Appeals, G.R. No. 118464, December 21, 1998, 300 SCRA 345.

[33] Heirs of Ignacio Conti v. Court of Appeals, supra.

[34] Gonzales v. Court of Appeals, supra note 32.

[35] Reyes v. Sotero, supra note 32; Pedrosa v. Court of Appeals, supra note 32.

[36] Maricalum Mining Corporation v. Brion, G.R. Nos. 157696-97, February 9, 2006, 482 SCRA 87, citing Sociedad Europea de Financiacion, S.A. v. Court of Appeals, G.R. No. 75787, January 21, 1991, 193 SCRA 105, 114, citing in turn Saura Import & Export Co., Inc. v. Philippine International Co., Inc., 118 Phil. 150, 156 (1963); and Miguel v. Court of Appeals, 140 Phil. 304, 312 (1969).

[37] Concepcion v. Court of Appeals, G.R. No. 123450, August 31, 2005, 468 SCRA 438.

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