

LAZARO B. RAYRAY, PLAINTIFF-APPELLANT, VS. CHAE KYUNG LEE, DEFENDANT-APPELLEE.*G. R. No. 18176. October 26, 1966*

Ponente: CONCEPCION, C.J.

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Appeal from a decision of the Court of Juvenile and Domestic Relations.

Plaintiff Lazaro Rayray seeks the annulment of his marriage to defendant Chae Kyung Lee. Inasmuch as, the latter's whereabouts is unknown, and she was formerly a resident of Pusan, Korea, summons was served by publication, as provided in the Rules of Court. Thereafter, plaintiff moved that defendant be declared in default, she not having filed an answer, and that a date be set for the reception of his evidence. Before acting on this motion, the lower court referred the case to the City Fiscal of Manila, pursuant to Articles 88 and 101 of the Civil Code of the Philippines, for the purpose of determining whether or not a collusion between the parties exists. Said officer having found no such collusion, the case was heard on the merits. In due course, thereafter, decision was rendered dismissing plaintiff's complaint, without costs, upon the ground: (1) that the court could not nullify a marriage contracted abroad; and (2) that the facts proven do not warrant the relief prayed for. A reconsideration of this decision having been denied, plaintiff appealed to the Court of Appeals, which certified the case to the Supreme Court, the jurisdiction of the lower court being in issue in the appeal.

In relation thereto, the court a quo found that it had no jurisdiction to pass upon the validity of plaintiff's marriage to the defendant, it having been solemnized in Seoul, Korea. Said conclusion is erroneous. In order that a given case could be validly decided by a court of justice, it must have jurisdiction over: (1) the subject-matter of the litigation; (2) the person of the parties therein; and (3) in actions in rem or quasi-in-rem, the res. [[1]]

The subject-matter of the present case is the annulment of plaintiff's marriage to the defendant, which is within the jurisdiction of our courts of first instance, [[2]] and, in Manila, of its Court of Juvenile and Domestic Relations. [3]

The same acquired jurisdiction over plaintiff herein by his submission thereto in consequence of the filing of the complaint herein. [[4]] Defendant was placed under the jurisdiction of said court, upon the service of summons by publication. [5]

This is an action in rem, for it concerns the status of the parties herein, and status affects or binds the whole world. The res in the present case is the relation between said parties, or their marriage tie. [6] Jurisdiction over the same depends upon the nationality or domicile of the parties, not the place of celebration of marriage, or the locus celebrationis. [7] plaintiff herein is a citizen of the Philippines, domiciled therein. His status is, therefore, subject to our jurisdiction, on both counts. True that defendant was and - under plaintiff's theory - still is a non-resident alien. But, this fact does not deprive the lower court of its jurisdiction to pass upon the validity of her marriage to plaintiff herein.

Indeed, marriage is one of the cases of double status, in that the status therein involves and affects two persons.

One is married, never in abstract or in a vacuum, but, always to somebody else. Hence, a judicial decree on the marriage status of a person necessarily reflects upon the status of another and the relation between them. The prevailing rule is, accordingly, that a court has jurisdiction over the res, in an action for annulment of marriage, provided, at least, one of the parties is domiciled in, or a national of, the forum.[[8]] Since plaintiff is a Filipino, domiciled in the Philippines, it follows that the lower court had jurisdiction over the res, in addition to its jurisdiction over the subject-matter and the parties. In other words, it could validly inquire into the legality of the marriage between the parties herein.

As regards the substantial validity of said marriage, plaintiff testified that he met the defendant in Pusan, Korea, sometime in 1952, where she was operating a night club; that they lived together from November 1952 to April 1955; that they were married in Pusan, Korea, on March 15, 1953, as attested to by their marriage certificate Exhibit D; that before the wedding she obtained the "police clearance" Exhibit A, written in Korean language, and dated February 16, 1953, which was necessary in order that she could contract marriage; that on June 30, 1953, he proceeded to India and left the defendant, then in advanced stage of pregnancy, in Korea; that in October, 1953, she joined him in India, bringing with her said Exhibit A, and its translation into English, Exhibit B; that he then noticed that, on February 16, 1953, defendant was already married, according to said Exhibit B; that as he confronted the defendant with the contents of this document, her reply was that it is not unusual for a Korean girl to marry twice in Korea; that when he inquired about her status on March 15, 1953, defendant confided to him that she had lived with about two (2) Americans and a Korean, adding, however, that there was no impediment to her contracting marriage with him; and that, later on, they were separated and her whereabouts are now unknown to him.

The lower court considered plaintiff's evidence insufficient to establish that defendant was married to another person prior to March 15, 1953, and we agree with this conclusion. To begin with, Exhibit A is not signed. It merely purports to bear the seal of the Chief of Pusan National Police. Secondly, the record does not show who prepared it, much less that he had personal knowledge of the truth of the entry therein concerning defendant's status on February 15, 1953. It should be noted, that defendant was a native, not of Pusan, but of Seoul, Korea. Hence, Exhibit A could, at best, be no more than hearsay evidence. Again, when plaintiff allegedly confronted the defendant with the contents of Exhibit B, defendant did not say that she had been married before. Plaintiff declared that she admitted having previously lived with several other men, adding, however, that she had no impediment, thus, in effect, negating the alleged previous marriage.

Thirdly, if Exhibit A was obtained on February 16, 1953, in order to establish defendant's qualification to contract marriage, why is it that the wedding took place, despite the entry in said document to the effect that defendant was married already? There is no competent evidence to the effect that Korean laws permit bigamy or polygamy. Moreover, the presumption is that the foreign law is identical to the *lex fori*, or, in the case at bar, the Philippine law.[[9]] In fact, the statement, imputed by plaintiff to the defendant, to the effect that, although she had cohabited before with other men, there was no impediment to her marrying him, clearly suggests that a previous marriage on her part would have been, in her opinion, a legal obstacle to her marriage with the plaintiff. Then too, the marriage certificate Exhibit D contains spaces for the entry of data on whether any of the contracting parties had been previously married; whether the prior marriage had been dissolved by a decree of divorce; and, if there had been such decree, the date thereof. Surely, these data would be absolutely irrelevant if polygamy were sanctioned in Korea. And, again, why is it that Exhibit D states that defendant had had no previous marriage?

Last, but not least, plaintiff cannot possibly secure the relief prayed for unless full faith and credence are given to his testimony, but we cannot believe him for the records show that he would not hesitate to lie when it suits his purpose. Thus, for instance, when plaintiff contracted marriage with the defendant, he said that he was single,

although, he admitted, this was a lie, because, sometime in 1940, he married in Baguio, one Adelaida Melecio or Valdez,[10] But, then he would, also, have us believe that his marriage with the latter was illegal or fictitious, because Adelaida and he did no more than sign, on a small window in the City Hall of Baguio, certain documents the contents of which he did not read.

WHEREFORE, the decision appealed from should be, as it is hereby, affirmed, with the costs of this instance against plaintiff-appellant. IT IS SO ORDERED.

Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Barrera, J., on leave.

[1] Banco Espanol-Filipino vs. Palanca (1918) 37 Phil. 921; Perkins vs. Dizon (1939) 69 Phil. 186; Perkins vs. Roxas (1941) 72 Phil. 514; Reyes vs. Diaz (1941) 73 Phil. 484; I Moran, Rules of Court (1963 ed.) pp. 32-34.

[2] Republic Act 296, Sec. 44(e).

[3] Republic Act 409, Sec. 39-A(c) (as added by Republic Act 1401, Sec. 1)

[4] Manila Railroad Co. vs. Attorney General (1911) 20 Phil. 523; 21 C.J.S. Sec. 82, Courts, p. 122; see, also, Restatement, Conflict of Laws, Sec. 113, Comment (e).

[5] Rule 14, Sec. 17, Rules of Court; Bing Gee vs. Chan Lai Young Gee (1949) (Cal.) 202 P2d 360; Piper vs. Piper (1907), 91 Pac. 198; Buzzi vs. Buzzi, 205 Pac. 2d 1125 (1949) (Cal.).

[6] Goodrich, Jurisdiction to Annul a Marriage, 32 Harvard Law Review, 806, 810; Leelar, Conflict of Laws (1959), p. 305; Freeman on Judgments, Sec. 1512, Vol. 3.

[7] 15 C.J.S. Conflict of Laws, sec. 15; I Beale Conflict of Laws (1935), p. 468; Goodrich, Conflict of Laws, p. 355; 4 Am. Jur. 2d, Annulment of Marriage, Sec. 60, p. 481; Restatement, Conflict of Laws, Sec. 115; Anno 128 ALR 69.

[8] 4 Am. Jur., Sec. 65 Annulment of Marriage, pp. 484-485.

[9] International Harvester Co. vs. Hamburg-American Line, (1918) 42 Phil. 845; Beale: Conflict of Laws, Vol. 3, Sec. 622A.2; Rabel, Conflict of Laws: A Comparative Study, Vol. 4, p. 493.

[10] Incidentally, he would not have so lied had he believed that bigamy or polygamy is not forbidden in Korea.

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