

PAUL AMBROSE, PETITIONER, VS. LOUELLA SUQUE-AMBROSE, RESPONDENT.

G.R. No. 206761. June 23, 2021

Ponente: GAERLAN, J.

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GAERLAN, J.:

This is a direct recourse through a petition for review on certiorari[1] under Rule 45 of the Rules of Court from the Decision[2] dated February 13, 2013, of the Regional Trial Court (RTC) of Quezon City, Branch 89, in Civil Case No. Q-07-60216 and its Order[3] dated April 8, 2013, denying the motion for reconsideration thereof.

Petitioner Paul Ambrose (petitioner), a citizen of the United States, married respondent Louella Suque-Ambrose (respondent) on March 13, 2005 in Manila, Philippines.[4]

On April 20, 2007, petitioner filed a Petition[5] for Declaration of Nullity of Marriage against respondent on the ground of psychological incapacity under Article 36 of the Family Code of the Philippines, as amended.[6]

The petition was amended on May 15, 2007. Thereafter, the respondent filed her Answer with Counterclaim. After pre-trial, trial ensued. Only the petitioner presented evidence as the respondent failed to appear and participate during the hearing on the merits.[7]

After the presentation of evidence by the petitioner, the RTC rendered the herein assailed decision,[8] the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the petition is hereby DISMISSED.

SO ORDERED.[9]

The RTC dismissed the petition on the ground that the petitioner lacks the legal capacity to sue. According to the RTC, under the nationality principle provided for under Article 15 of the Civil Code, the petitioner, an American Citizen, is not covered by our laws on family rights and duties, status and legal capacity.[10]

On April 3, 2013, the petitioner filed a Notice of Appeal but the same was denied due course by the RTC in its Order[11] dated April 8, 2013, on account of the petitioner's failure to file a Motion for Reconsideration as required by Section 20(1) of A.M. No. 02-11-10-SC or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

This prompted the petitioner to file the instant petition for review on certiorari, alleging in support thereof that:

a)

The lower court committed a patently null and void decision and order contrary to Art. 36 of the Family Code and Section 2(a) of the Rule when it ruled that petitioner has no legal personality to file the petition for being a foreigner pursuant to Art. 15 of the Civil Code;

b)

The Supreme Court may suspend Section 20 (1) of the Rule and allow petitioner to avail of Rule 45 in the interest of procedural due process and afford him his last chance for obtaining full appellate review of the patently null and void decision and order of the lower court solely on the legal question raised as allowed by the Court in several cases.[12]

On January 26, 2015, the respondent filed her compliance[13] with the Court's Resolution[14] dated October 22, 2014, in which she manifested that she will no longer be filing any comment in response to the Petition.

The petition is meritorious.

Procedural rules are essential in the administration of justice.[15] Rules are established to provide order and enhance the efficiency of our judicial system.[16]

However, the Court recognized on certain occasions that procedural rules may be relaxed, particularly when their strict application frustrate rather than promote substantial justice. The relaxation of the rules is also warranted considering the nature and the issues involved in the case.[17]

In this case, the RTC denied the petitioner's notice of appeal for failure to file a motion for reconsideration. The Court notes nonetheless that the notice of appeal was filed well within the same 15-day period required for the filing of the motion for reconsideration. Due regard must also be given to the fact that the decision appealed from is a dismissal of the petition that is based not on the sufficiency of the ground raised but solely for lack of legal capacity on the part of the petitioner.

Thus, in the exercise of its equity jurisdiction, the Court resolves in view of the attendant circumstances of this case, to disregard the procedural lapse committed in order to give the parties the amplest opportunity to fully ventilate their claims and to fully ascertain the merits of the case.[18]

Proceeding to the meat of the instant controversy, the petitioner argues that Article 15 of the Civil Code does not apply, as "the legal capacity to get married and its consequences, including the nullification of void marriage is governed by the law of the place where the marriage was entered into and not by the nationality principle." [19]

The Court agrees.

Lex loci celebrationis is a latin term, literally translated as the law of the place of the ceremony. It means that the validity of a contract is governed by the place where it is made, executed, or to be performed.[20] It is adhered to by Philippine law, as enunciated under the first paragraph of Article 26 of the Family Code, viz.:

Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 3637 and 38.

Otherwise stated, a marriage formally valid in the place it is celebrated is valid in the Philippines.

Lex loci celebrationis is a conflict of law principle that comes into play when there are substantive issues relating to a contract that is celebrated elsewhere than the place of citizenship of its parties.[21] Philippine courts apply the same, not only with respect to marriage but to other contracts, in order to determine the law that is to be applied in resolving disputes that arise as a result thereof.

Applied to this controversy, the marriage between the parties having been celebrated in the Philippines, is governed by Philippine laws. The same laws holds true with its incidents and consequences. Thus, all matters relating to the validity of the contract of marriage, such as the presence or absence of requisites, forms, or solemnities are to be judged in relation to the law in which it has been celebrated or performed.

Along this line, it is useful to state that when the marriage is celebrated elsewhere, its validity does not depend fully on foreign law. While accepted in the jurisdiction in which it is celebrated, it may be held invalid in the Philippines when it falls under the instances mentioned in par. 1, Article 26 of the Family Code such as incestuous or bigamous marriages. As well, irrespective of the place of solemnization of marriage, Philippine laws bind the contracting Filipino citizen with respect to "family rights and duties, status, condition, and legal capacity"; any controversy arising therefrom would then have to be determined in accordance with the same law.[22]

Herein, it is indubitable that the action relates to the validity of the marriage celebrated in the Philippines. The petitioner's action assails the psychological incapacity of the respondent to perform the essential marital obligations. Ultimately, therefore, the result of the action would have an effect on the personal status of the respondent. With this, there is no reason to foreclose the petitioner's right to institute the instant petition for nullity of marriage.

Furthermore, a review of procedural rules present no obstacle in the instant action being instituted by a foreigner. Legal capacity to sue or the capacity to institute legal action is governed by Section 1, Rule 3 of the Rules of Civil Procedure, under which, "[o]nly natural or juridical persons, or entities authorized by law may be parties in a civil action." The absence of legal capacity to sue indicates the general disability of a plaintiff to sue as when a plaintiff is not in the exercise of his or her civil rights, does not have the necessary qualification to appear in the case, or does not have the character or representation; which may be on account of minority, insanity, incompetence, lack of juridical personality, or other similar grounds for disqualification.[23]

Lack of capacity to sue is distinguished from lack of legal personality to sue while the former refers to the general disqualification of a plaintiff to institute an action, the latter refers to the fact that the plaintiff is not the real party in interest. As defined under Section 2, Rule 3 of the Rules of Civil Procedure, "[a] real party in interest is 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." A real party in interest is one who possesses a substantial interest in the case as a result of breach of a legal right.[24]

Both "lack of legal capacity to sue" and "lack of legal personality" to sue are affirmative defenses.[25] In the first, the ground is "that the plaintiff has no legal capacity to sue,"[26] while in the second, the ground is based on the fact "that the pleading asserting the claim states no cause of action." [27]

Based on the foregoing, it is clear that the petitioner has both the legal capacity and personality to sue. His legal personality proceeds from the fact that it is his marriage to the respondent, which, in turn, relates to his civil status, that stands to be affected by the petition for nullity that he instituted. He has legal personality in the action as he has personal and material interest in the result of the action.[28]

With respect to his legal capacity to sue, the statement as to who may institute an action or a petition for nullity of marriage does not distinguish between citizens of the Philippines and foreigners. Section 2 of A.M. No. 02-11-10-SC, provides:

Section 2. Petition for declaration of absolute nullity of void marriages.

- Who may file. - A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.

The provision is clear in that either of the contracting parties may file a petition to declare the marriage void. It is a basic rule in statutory construction that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. No distinction should be made in the application of the law where none has been indicated. Courts can only interpret the law; it cannot read into the law what is not written

therein.[29]

In view of the foregoing, therefore, the RTC should not have dismissed the case on the absence of the petitioner's legal capacity to sue. By doing so, it failed to resolve factual issues necessary to resolve whether or not the marriage between the parties should be nullified on the ground of psychological incapacity. Considering that a petition for review on certiorari is limited to questions of law and the Court is not a trier of facts, the remand of this case to the RTC for the proper resolution of this case on the merits is most appropriate.

WHEREFORE, in view of the foregoing, the instant petition for review on certiorari is hereby GRANTED. Consequently, the Decision dated February 13, 2013 and Order dated April 8, 2013 of the Regional Trial Court (RTC) of Quezon City Branch 89, in Civil Case No. Q-07-60216 are REVERSED and SET ASIDE. The case is hereby REMANDED to the RTC for further proceedings and judgment on the merits.

SO ORDERED.

Gesmundo, C.J., Carandang, and Zalameda, JJ., concur.
Caguioa, J., please see concurring opinion.

[1] Rollo, pp. 3-20.

[2] Id. at 23-29; rendered by Presiding Judge Cecilyn E. Burgos-Villavert.

[3] Id. at 30.

[4] Id. at 5, 37.

[5] Id. at 31-36.

[6] Id. at 23.

[7] Id.

[8] Id. at 23-29.

[9] Id. at 29.

[10] Id. at 28.

[11] Id. at 30.

[12] Id. at 5.

[13] Id. at 71-75.

[14] Id. at 68.

[15] Dr. Malixi, et al. v. Dr. Baltazar, 821 Phil. 423, 435 (2017).

[16] Id., citing Le Soleil Int'l. Logistics Co., Inc., et al. v. Sanchez, et al., 769 Phil. 466, 473 (2015).

[17] Rep. of the Phils. v. Dimarucot, et al., 827 Phil. 360, 373 (2018).

[18] Dr. Malixi, et al. v. Dr. Baltazar, supra, citing Acaylar, Jr. v. Harayo, 582 Phil. 600, 613 (2008).

[19] Rollo p. 7.

[20] *Hasegawa v. Kitamura*, 563 Phil. 572, 587-588 (2007).

[21] *Id.*

[22] *Del Socorro v. Van Wilsem*, 749 Phil. 823, 834 (2014). Cf. *Republic v. Manalo*, G.R. No. 221029, April 24, 2018.

[23] *Columbia Pictures, Inc. v. CA*, 329 Phil. 875, 900-901 (1996).

[24] *Stronghold Insurance Co., Inc. v. Cuenca, et al.*, 705 Phil. 441, 454-455 (2013).

[25] 2020 AMENDMENTS TO THE RULES OF CIVIL PROCEDURE, Rule 8, Section 12.

[26] *Id.* at Sec. 12(3)

[27] *Id.* at Sec. 12(4), Cf *Columbia Pictures, Inc. v. CA*, *supra*.

[28] Cf. *Fujiki v. Marinay et al.*, 712 Phil. 524, 549-550 (2013).

[29] *The Secretary of Justice, et al. v. Koruga*, 604 Phil. 405, 417 (2009).

CONCURRING OPINION

CAGUIOA, J.:

I concur. I agree with the ponencia's holding that Paul Ambrose (petitioner) here has the legal standing to file a petition for declaration of nullity before a Philippine Court. Petitioner, as a foreigner husband of a Filipino wife in a marriage celebrated in the Philippines, has locus standi precisely because he is a spouse, and as mentioned by the ponencia, Section 2(a) of the "Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages" (A.M. No. 02-11-10-SC) does not distinguish between foreign and Filipino spouses on the matter of who may file a petition for declaration of nullity of void marriages, to wit:

Section 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.

I further second the ponencia's citation of the irrelevance of Article 15 of the Civil Code since said provision clearly relates to family rights and duties, status, condition and legal capacity of Filipino citizens. It simply has no application to foreign nationals such as petitioner in the instant case.

To be sure, the legal standing of a foreigner spouse to sue has been touched on by the Court in the case of *Pilapil v. Ibay-Somera*[1] (*Pilapil*), where the German spouse therein was found to lack the standing to file the complaints as "offended spouse," for having obtained the divorce decree in Germany prior to the filing of said complaints. Resembling the facts in *Republic v. Manalo*[2] (*Manalo*), the Court there ruled that since the divorce decree is binding on the German spouse pursuant to the nationality principle, he may no longer be seen as an offended spouse in the contemplation of the crime of adultery in the Revised Penal Code.

In *Pilapil*, the Court laid down as part of its decisional rule that the litmus test in the determination of the legal standing of a foreigner spouse to sue as a spouse in Philippine courts is whether a marriage still subsisted. Speaking through Justice Regalado, the Court clarified, thus:

Thus, in the recent case of *Van Dorn vs. Romillo, Jr., et al.*, after a divorce was granted by a United States

court between Alice Van Dorn, a Filipina, and her American husband, the latter filed a civil case in a trial court here alleging that her business concern was conjugal property and praying that she be ordered to render an accounting and that the plaintiff be granted the right to manage the business. Rejecting his pretensions, this Court perspicuously demonstrated the error of such stance, thus:

There can be no question as to the validity of that Nevada divorce in any of the States of the United States. The decree is binding on private respondent as an American citizen. For instance, private respondent cannot sue petitioner, as her husband, in any State of the Union x x x.

It is true that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces the same being considered contrary to our concept of public policy and morality. However, aliens may obtain divorces abroad, which may be recognized in the Philippines, provided they are valid according to their national law x x x.

Thus, pursuant to his national law, private respondent is no longer the husband of petitioner. He would have no standing to sue in the case below as petitioner's husband entitled to exercise control over conjugal assets.

Under the same considerations and rationale, private respondent, being no longer the husband of petitioner, had no legal standing to commence the adultery case under the imposture that he was the offended spouse at the time he filed suit.

The allegation of private respondent that he could not have brought this case before the decree of divorce for lack of knowledge, even if true, is of no legal significance or consequence in this case. When said respondent initiated the divorce proceeding, he obviously knew that there would no longer be a family nor marriage vows to protect once a dissolution of the marriage is decreed. Neither would there be a danger of introducing spurious heirs into the family, which is said to be one of the reasons for the particular formulation of our law on adultery, since there would thenceforth be no spousal relationship to speak of. The severance of the marital bond had the effect of dissociating the former spouses from each other, hence the actuations of one would not affect or cast obloquy on the other.[3]

Unlike the facts in *Manalo and Pilapil*, the instant case involves a foreigner spouse seeking before a Philippine court the remedy of a declaration of nullity of his marriage with a Filipino spouse celebrated in the Philippines. Thus, at the time of the filing of the instant petition, the marriage between petitioner and respondent is presumed to be valid until it is nullified. This configuration of facts does not lend itself to the application of Article 15 of the Civil Code, and is instead within the province of *locus standi*.

Finally, on point as well is the ponencia's correction of the lower courts' framing of the instant controversy as one that pertains to the nationality of petitioner. As correctly reframed by the ponencia, it is the doctrine of *lex loci celebrationis* or the law of the place of the ceremony that squarely applies, so that since the marriage between petitioner and respondent was celebrated in the Philippines, the Philippine law on dissolution and declaration of nullity of marriages must apply, and since petitioner here cites Article 36 of the Family Code on psychological incapacity as the ground for the prayer of the declaration of nullity of his marriage with respondent, then it is incorrect to deny said petition on account of petitioner's supposed lack of standing or personality to file the same.

In the light of the foregoing, I CONCUR in the Court's disposition to remand the case to the RTC for further proceedings on the merits.

[1] G.R. No. 80116, June 30, 1989, 174 SCRA 643.

[2] 831 Phil. 33 (2018).

[3] Pilapil v. Ibay-Somera, supra note 1, at 663-664.

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