

CARMEN P. NOVINO AND RODOLFO NOVINO, PETITIONERS, VS. THE COURT OF APPEALS, LINA Y. FUENTES, RAFAEL FUENTES AND PEOPLE'S HOMESITE AND HOUSING CORPORATION (PHHC), RESPONDENTS.

G.R. No. 21098. May 31, 1963

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This petition for review of the decision of the Court of Appeals has been, by resolution, dismissed "for lack of merit".

Now comes petitioners' counsel to argue that the resolution "does not interpret or clarify any law or right raised by the petitioner but simply denied or dismissed the petition without (giving) any reason for such action". And by citing sec. 12 of Art. VIII of the Constitution, counsel impliedly suggests that we disregarded it in failing to state the facts and the law on which our resolution rested.

In connection with identical short resolutions, the same question has been raised before; and we held that these "resolutions" are not "decisions" within the above constitutional requirement. They merely hold that the petition for review should not be entertained in view of the provisions of Rule 46 of the Rules of Court; and even ordinary lawyers have all this time so understood it. It should be remembered that a petition to review the decision of the Court of Appeals is not a matter of right, but of sound judicial discretion; and so there is no need fully to explain the court's denial. For one thing, the facts and the laws are already mentioned in the Court of Appeals' opinion.

By the way, this mode of disposal has—as intended—helped the court in alleviating its heavy docket; it was patterned after the practice of the U. S. Supreme Court, wherein petitions for review are often merely ordered "dismissed".

But let us—this time at least—consider the petitioners' arguments.

Regarding the claim that the Court of Appeals has failed to decide one question of law (Art. 144 of the Civil Code) that herein petitioners had submitted, it is enough to explain that the courts are not required to decide each and every question of law raised by one party, regardless of its materiality to the litigation.

And—contrary to petitioners' contention—a court's failure to decide one immaterial or unnecessary legal question, does not infringe Art. 9 of the New Civil Code, because that article refers to refusal of a judge to decide a material legal issue on the ground or excuse that the law on that point is silent or obscure or insufficiently expressed.

To uphold herein petitioners' claim would bring about a situation wherein the time of judges will be wasted with useless and impertinent legal questions knowingly or unknowingly raised to delay the litigation or befuddle the issues.

And yet, what is Carmen Novino's gripe? She asserts that the Court of Appeals failed to apply Art. 144 of the

Civil Code. The facts in short are these: Carmen sold some real property she had acquired from the People's Homesite and Housing Corporation. Now she wants the sale annulled alleging she had not obtained the consent of "her husband" Rodolfo Novino. The Court of Appeals found that her marriage to him was null and void from the beginning because both of them had surviving spouses.[1] Therefore, the Court of Appeals ruled: valid sale, no need of Rodolfo's consent. Here she asks that Art. 144 should be applied.[2] It says:

"ART. 144.—When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership.

True, the Court of Appeals did not expressly rule on the point. But it impliedly held that at the time the property was acquired (by her) they were not living as husband and wife; so, Art. 144 is immaterial.

The Court did not add—as it could have added—that if the sale was defective by reason of the lack of Rodolfo's consent, it was the heirs of Rodolfo—not Carmen—who have a right to ask for annulment. Carmen could not invoke her own fault or shortcoming (she did not get his consent) to invalidate a sale she had consummated. On the other hand, this Court takes into account in the use of its discretion, that apparently, the money was used for the benefit of Rodolfo, for his expenses at the Psychopatic Hospital.

The motion to reconsider is denied.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Two conjugal partnerships with these still subsisting.

[2] If applied, would there be three partnerships?

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