

CRESCENCIO[] ARRIETA, PETITIONER, V. MELANIA T. ARRIETA, RESPONDENT.*G.R. No. 234808. November 19, 2018*

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-234808/>**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on certiorari[1] assailing the Decision[2] dated July 22, 2016 and the Resolution[3] dated June 1, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 04745-MIN, which annulled and set aside the Decision[4] dated October 7, 2004 of the Regional Trial Court of Davao City, Branch 8 (RTC) in Civil Case No. 28,382-01, declaring the marriage of petitioner Crescencio Arrieta (Cris) and respondent Melania T. Arrieta (Melania) void ab initio on the ground of psychological incapacity pursuant to Article 36[5] of the Family Code.

The Facts

Cris and Melania were married in a civil wedding ceremony sometime in August 1973, and later, in a church wedding ceremony on January 1, 1974. However, sometime in November 1991, Melania left for the United States of America (US) due to her alleged "irreconcilable differences" with Cris. In 1992, she obtained a divorce decree, and subsequently, married a certain Zenon Parnawski (Zen) in San Diego, California in 1993.[6]

On January 22, 2001, Cris filed a petition[7] for the declaration of nullity of his marriage with Melania on the ground of psychological incapacity before the RTC, docketed as Civil Case No. 28,382-01. Essentially, Cris claimed that Melania was psychologically incapacitated to comply with her marital obligations since she abandoned and refused to support her family.[8]

During the proceedings, Cris filed a Motion for Issuance of Summons by Publication[9] dated May 21, 2001, because Melania, who already resided abroad, could not be personally served with summons.[10] In an Order[11] dated January 21, 2002, the RTC granted the said motion, and thereby ordered the summons to be served upon Melania by publication in a newspaper of general circulation.[12] Accordingly, the summons and copy of the petition were published in the San Pedro Express.[13] Meanwhile, no answer was filed by Melania.[14]

The RTC Ruling

In a Decision[15] dated October 7, 2004, the RTC granted the petition for declaration of nullity of marriage, declaring void ab initio the marriage of Cris and Melania on the ground of the latter's psychological incapacity pursuant to Article 36 of the Family Code.[16]

On February 21, 2005, the RTC issued a Certificate of Finality[17] declaring that its Decision had become final and executory on December 3, 2004.

After more than seven (7) years from the said decision's finality or on February 13, 2012, Melania filed a petition for annulment of judgment[18] before the CA, claiming that the RTC Decision was rendered without jurisdiction

and tainted with extrinsic fraud.[19]

The CA Ruling

In a Decision[20] dated July 22, 2016, the CA granted the petition for annulment of judgment, and consequently, declared null and void the RTC Decision.[21]

While the CA did not find any merit in Melania's claims of lack of jurisdiction[22] and extrinsic fraud[23] – which were the grounds raised in her petition for annulment of judgment – it nonetheless granted the said petition on the ground of denial of due process, pointing out that the service of summons to her suffered from fatal defects. Among others, the CA pointed out that the San Pedro Express was not shown to be a newspaper of general circulation, and that Cris did not send a copy of the said summons to the last known address of Melania.[24] Anent the latter finding, the CA opined that to properly effect the service of summons to a nonresident defendant who cannot be found in the Philippines, the plaintiff must both publish and send a copy of the summons to the last known address of the defendant.[25]

With the subsequent denial[26] of his motion for reconsideration,[27] Cris elevated the matter to the Court.

The Issue Before the Court

The main issue in this case is whether or not the CA erred in granting Melania's petition for annulment of judgment.

The Court's Ruling

A petition for annulment of judgment is a recourse that is equitable in character. It is independent of the case and is allowed only in exceptional cases as where there is no available or other adequate remedy.[28] Section 1, Rule 47 of the Rules of Court (Rules) provides:

Section 1. Coverage. – This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

Under Section 2 of the same Rule, an action for annulment of judgment may be based on two (2) grounds, namely: (1) extrinsic fraud; and (2) lack of jurisdiction:

Section 2. Grounds for Annulment. – The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

However, in cases involving jurisdiction over the subject matter, the Court has consistently recognized the denial of due process as a valid ground to file a petition for annulment of judgment. This is because, as rationalized in the case of *De Pedro v. Romasan Development Corporation*[29] (*De Pedro*), the violation of one's due process rights is, after all, a defect in jurisdiction:

Due process requires that those with interest to the thing in litigation be notified and given an opportunity to defend those interests. Courts, as guardians of constitutional rights, cannot be expected to deny persons their due process rights while at the same time be considered as acting within their jurisdiction.

Violation of due process rights is a jurisdictional defect. This court recognized this principle in *Aducayen v. Flores* [151-A Phil. 556 (1973)]. In the same case, this court further ruled that this jurisdictional defect is

remedied by a petition for certiorari.

Similarly in *Vda. de Cuaycong v. Vda. de Sengbengco* [110 Phil. 113 (1960)], this court held that a decision that was issued in violation of a person's due process rights suffers a fatal infirmity.

The relation of due process to jurisdiction is recognized even in administrative cases wherein the standard of evidence is relatively lower. Thus, in *Montoya v. Varilla* [595 Phil. 507 (2008)]:

The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted from their jurisdiction. The violation of a party's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction.[30] (Emphases and underscoring supplied)

In this light, the Court, in *De Pedro*, held that circumstances which negate the court's acquisition of jurisdiction – such as defective service of summons – are causes for an action for annulment of judgment.[31] It is well-settled that "the service of summons is a vital and indispensable ingredient of due process and compliance with the rules regarding the service of the summons is as much an issue of due process as it is of jurisdiction." [32]

Personal service of summons is the preferred mode of service of summons. However, other modes of serving summons may be done when justified. For instance, service of summons by extraterritorial service is allowed after leave of court when the defendant or respondent does not reside or is not found in the country or is temporarily out of the country.[33] Section 15, Rule 14 of the Rules sets the parameters of extraterritorial service of summons, to wit:

Section 15. Extraterritorial service. – When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer. (Emphasis and underscoring supplied)

Breaking down the provision, three (3) modes of extraterritorial service of summons are recognized. These are: (1) by "personal service as under Section 6 [of the Rules]"; (2) by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant; and (3) "in any other manner the court may deem sufficient."

In this case, the CA annulled and set aside the RTC Decision, declaring Melania to have been deprived of due process on account of a defective service of summons. To the CA, Cris should have not only published a copy of the summons but also sent a copy thereof to Melania's last known address. However, Cris laments that the RTC only ordered that the summons be published in a newspaper of general circulation, which mode of service falls under the third mode of extraterritorial service of summons, i.e., "in any other manner the court may deem sufficient," and hence, should be differentiated from the second mode of extraterritorial service of summons which requires publication and service by registered mail to the defendant's last known address.

Cris' arguments are tenable. To recall, the RTC's January 21, 2002 Order which granted his Motion for Issuance of Summons by Publication reads:

Acting on the "Motion for Issuance of Summons by Publication" filed by the plaintiff thru counsel, the same is hereby GRANTED.

Accordingly, let summons issue in this case to be served upon defendant by publication in a newspaper of general circulation at the expense of the plaintiff, pursuant to Section 15, Rule 14 of the Rules of Court.

SO ORDERED.[34] (Emphasis and underscoring supplied)

As above intimated, Section 15, Rule 14 of the Rules specifically authorizes a court to effect extraterritorial service of summons "in any other manner the court may deem sufficient," "[w]hen the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff." As Cris correctly argues, this mode of service is separate and distinct from the second mode of service under the same rule, which prescribes "publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant." If the RTC intended to direct extraterritorial service of summons under the second mode, then it should have so indicated that the publication be complemented by sending a copy thereof to the last known address of Melania through registered mail. However, it clearly did not.

Notably, publishing a copy of the summons does not necessarily mean that the trial court intended to direct extraterritorial service of summons under the second mode of service provided in Section 15, Rule 14 of the Rules. In *Romualdez-Licaros v. Licaros*[35] (*Romualdez-Licaros*), the Court considered the trial court's order to publish the summons, together with furnishing a copy thereof to therein defendant by delivery through the Department of Foreign Affairs, as extraterritorial service of summons under the third mode, and not the second mode of service. Similar to this case, given that the publication of summons was not complemented by sending a copy thereof to the defendant's last known address specifically through registered mail, it is thus reasonable to conclude that the RTC intended extraterritorial service of summons under the third mode.

At this juncture, it should be pointed out that the RTC's call not to have a copy of the summons sent to Melania's last known address – whether through registered mail (in such case, the mode of service would qualify under the second mode) or through other means (as exhibited in *Romualdez-Licaros*) – in addition to the publication of the summons is amply justified by the circumstances of this case. As the records show, it is undisputed that Melania had left the Philippines and had been estranged from Cris as early as 1991. Since then, Melania has been residing in San Diego, California, without any showing that she had informed Cris or that Cris knew of her foreign address. Hence, given this backdrop, it is quite understandable why it would have been futile, more so, logistically improbable, to have the summons sent to Melania's "last known address." At the very least, the publication of summons should be considered as substantial compliance with the rules on service. To reiterate, Section 15, Rule 14 of the Rules authorizes the RTC to effect extraterritorial service of summons "in any other manner the court may deem sufficient," for as long as all the parties' due process rights are duly regarded. Besides, to invalidate the service of summons in this case would unduly prejudice Cris who was merely subscribing to a duly issued court directive.

In addition, it may not be amiss to state that the RTC's January 21, 2002 Order directing the assailed service of summons should be accorded the presumption of regularity. It is axiomatic that a public official enjoys the presumption of regularity in the discharge of his official duties and functions.[36] Hence, Melania bears the burden of proving any irregularity on the part of the court anent the service of summons in this case. To clarify, these observations must hold true not only with respect to its directive to have the summons published, but, as

Cris points out, also to the eventual choice of the San Pedro Express by the Clerk of Court as the publishing newspaper of general circulation. Verily, without any evidence to show otherwise, the regularity of the publication must stand. As held in *Yap v. Lagtapon*,^[37] "[t]he presumption of regularity in the performance of official duties is an aid to the effective and unhampered administration of government functions. Without such benefit, every official action could be negated with minimal effort from litigants, irrespective of merit or sufficiency of evidence to support such challenge."^[38]

At any rate, regardless of any defects in the mode of service of summons, Melania's petition for annulment of judgment is already barred by estoppel by laches pursuant to Section 3, Rule 47 of the Rules, viz.:

Section 3. Period for filing action. - If based on extrinsic fraud, the action must be filed within four (4) years from its discovery; and if based on lack of jurisdiction, before it is barred by laches or estoppel. (Emphasis and underscoring supplied)

The principle of laches or "stale demands" ordains that the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier – negligence or omission to assert a right within a reasonable time – warrants a presumption that the party entitled to assert it has abandoned it or declined to assert it.^[39]

As earlier intimated, both Cris and Melania had already separated ways back in 1991 and even had an "open-book" arrangement, whereby both knew and tolerated each other's extra-marital affairs and relationships over the years.^[40] In fact, Melania left the Philippines in 1991 and obtained a divorce decree from the Superior Court of California, County of San Diego so as to marry her then boyfriend Zen.^[41] Subsequently, Cris personally informed Melania that he was planning to file a petition for declaration of nullity of their marriage.^[42] When the petition for declaration of nullity was filed in 2002, it was published together with the summons in a newspaper of general circulation. The RTC then rendered its judgment against Melania, which judgment became final and executory in 2004. In 2005, Cris met Melania and her boyfriend, David Toole, and told the latter that he can marry her in the Philippines since their marriage was already annulled.^[43]

In view of these circumstances, the Court is hard-pressed to believe that Melania had no knowledge of the nullity of marriage proceedings filed by Cris against her. It is highly inconceivable that it took her more than seven (7) years before she became aware of the existence of the RTC Decision given her "open-book" arrangement with Cris, coupled with her other actions and choices throughout the years since they were separated, most significantly, her obtaining a divorce decree. Thus, the equities of this case dictate that Melania cannot validly claim denial of due process because she is already estopped to avail of a petition for annulment of judgment under Rule 47 of the Rules.

In fine, the CA's ruling granting Melania's petition for annulment of judgment is reversed and set aside. The RTC's October 7, 2004 Decision declaring the marriage of Cris and Melania void ab initio, which decision had already attained finality on December 3, 2004, is hereby reinstated.

WHEREFORE, the petition is GRANTED. The Decision dated July 22, 2016 and the Resolution dated June 1, 2017 of the Court of Appeals in CA-G.R. SP No. 04745-MIN are hereby SET ASIDE. Accordingly, the Decision dated October 7, 2004 of the Regional Trial Court of Davao City, Branch 8 declaring the marriage of petitioner Crescencio Arrieta and respondent Melania T. Arrieta void ab initio is REINSTATED.

SO ORDERED.

Carpio (Chairperson), Caguioa, A. Reyes, Jr., and J. Reyes, Jr.,^[**] JJ., concur.

[*] Also referred to as "Cresencio" in some parts of the rollo.

[**] Designated Additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 4-63.

[2] Id. at 64-75. Penned by Associate Justice Romulo V. Borja with Associate Justices Oscar V. Badelles and Ronaldo B. Martin, concurring.

[3] Id. at 134-137.

[4] Not attached to the rollo.

[5] 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.

[6] See rollo, pp. 64-65.

[7] Not attached to the rollo.

[8] See rollo, pp. 64-65.

[9] Id. at 131-132.

[10] See id. at 65 and 69.

[11] Not attached to the rollo.

[12] See rollo, p. 65.

[13] See Affidavit of Publication dated February 27, 2002; id. at 133.

[14] Id. at 65.

[15] Not attached to the rollo.

[16] See rollo, pp. 65-66.

[17] Id. at 213. Signed by Clerk of Court V Evalyn M. Arellano-Morales.

[18] Not attached to the rollo.

[19] See rollo, p. 66.

[20] Id. at 64-75.

[21] Id. at 73 and 75.

[22] The CA ruled that in actions in rem, such as Civil Case No. 28,382-01, Philippine courts have jurisdiction over the res, and hence, jurisdiction over the person of the nonresident defendant is not essential; see id. at 68-69.

[23] The CA ruled that there was no proof to show that Cris practiced deceit or employed a subterfuge that precluded Melania from fully and completely presenting her case; see id. at 74-75.

[24] See *id.* at 70-71.

[25] See *id.* at 71.

[26] See CA Resolution dated June 1, 2017; *id.* at 134-137.

[27] Dated August 15, 2016; *id.* at 76-130.

[28] *De Pedro v. Romasan Development Corporation*, 748 Phil. 706, 733-734 (2014); citation omitted.

[29] *Id.*

[30] *Id.* at 726.

[31] *Id.* at 734-735; citation omitted.

[32] *Borlongan v. Banco De Oro*, G.R. Nos. 217617 & 218540, April 5, 2017, 822 SCRA 418, 431-432.

[33] *De Pedro v. Romasan Development Corporation*, *supra* note 23, at 727-728.

[34] *Rollo*, p. 65.

[35] 449 Phil. 824 (2003).

[36] *Yap v. Lagtapon*, G.R. No. 196347, January 23, 2017, 815 SCRA 94, 107.

[37] *Id.*

[38] *Id.* at 97.

[39] *Spouses Manila v. Spouses Manzo*, 672 Phil. 460, 476 (2011); emphasis and underscoring supplied.

[40] See TSN dated October 16, 2013, pp. 85-87; *rollo*, pp. 298-300.

[41] *Rollo*, pp. 7-8.

[42] See TSN dated October 16, 2013, pp. 87-93; *rollo*, pp. 300-306.

[43] See TSN dated October 16, 2013, pp. 83-85; *rollo*, pp. 296-298.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.