

MARIA LINA P. QUIRIT-FIGARIDO, PETITIONER, VS. EDWIN L. FIGARIDO, RESPONDENT.*G.R. No. 259520, November 05, 2024*

Ponente: ROSARIO, J.

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Before the Court is a Petition for Review on Certiorari[1] filed under Rule 45 of the Rules of Court by petitioner Maria Lina P. Quirit-Figarido (Maria Lina) against respondent Edwin L. Figarido (Edwin), seeking to reverse the Decision[2] and the Resolution[3] promulgated by the Court of Appeals (CA); to declare the marriage between Maria Lina and Edwin as void ab initio for being bigamous; and to declare that Maria Lina has the right to remarry.

Antecedents

According to Maria Lina, she was married to Ho Kar Wai, a Chinese national, on December 13, 1989 in Tsim Sha Tsui in Hong Kong, and also on August 23, 1994 before Judge Roberto L. Makalintal of the Metropolitan Trial Court of Parañaque City, Branch 77.[4]

In June 2000, Maria Lina met Edwin while she was working as a bank teller at Equitable Bank in Central Hong Kong. Edwin, who was a regular client of the bank, was an expatriate working as Engineer Manager in The Cable Assembly in Dongguan, China. They became friends and sometime in 2002, Edwin started courting Maria Lina. At first, Maria Lina did not entertain Edwin because she still had problems with her marital status. Despite knowledge of the situation, Edwin promised Maria Lina that he was willing to wait until she settled her marital problems.[5]

By reason of Edwin's good intentions toward Maria Lina, she started to have an affair with him although she was still lawfully married to Ho Kar Wai. Eventually, Maria Lina resigned from her work in Hong Kong and returned to the Philippines because she got pregnant by Edwin.[6]

On February 22, 2003, Maria Lina and Edwin married. This marriage was officiated by Reverend Christopher Navarro Lumibao at the House of the Groem in Narcissus Street, Roxas District, Quezon City. They were blessed with two children: namely, xxxxxxxxxxxx (xxxxxxxxxxxxx), who was born on September 3, 2004, and xxxxxxxxxxxx (xxxxxxxxxxxxx), who was born on January 25, 2007.[7]

On November 28, 2007, Ho Kar Wai obtained a Certificate of Making Decree Nisi Absolute (Divorce Decree) from the District Court of Hong Kong Special Administrative Region, dissolving his marriage with Maria Lina. Thus, Maria Lina filed a Petition for Recognition/Enforcement of Foreign Judgment before the Regional Trial Court (RTC) of Parañaque City, Branch 260 (RTC Branch 260). Said petition was subsequently granted by the RTC in a Decision dated February 5, 2009.[8]

Sometime in 2014, Maria Lina and Edwin separated. Their children remained in the custody of Maria Lina in the Philippines while Edwin, who was working overseas, provided them with support.[9]

On March 6, 2017, Maria Lina filed before the RTC of Parañaque City, Branch 10, which was constituted as a family court, a petition for declaration of nullity of marriage, docketed as Civil Case No. 2017-41, for the reason that the same was "bigamous," pursuant to Article 35(4) of the Family Code. She prayed that her marriage with Edwin be declared void ab initio for being bigamous and that she be declared to have the legal capacity to remarry.[10]

Per the Sheriff's Report dated June 6, 2017, Edwin was served with summons at his last known address, but the same remained "unserved" because the latter was working in Singapore. Hence, upon Maria Lina's motion, service of summons upon Edwin was effected by publication.[11]

The Office of the Solicitor General (OSG), as counsel for the Republic of the Philippines (Republic), entered its appearance and deputized the Office of the City Prosecutor (OCP) of Parañaque City to appear on its behalf.[12]

In an Order dated February 28, 2018, the family court directed the OCP to conduct an investigation to determine if there was collusion between the parties. On May 3, 2018, the OCP manifested that despite notice sent to the parties for purposes of investigation, neither of them appeared.[13]

On February 4, 2019, a pre-trial conference was held, wherein the parties entered into a stipulation of facts. Maria Lina proposed to stipulate that she had a first marriage with Ho Kar Wai on December 13, 1989; that she performed another marriage with Ho Kar Wai on August 23, 1994 in the Philippines; that she married her second husband Edwin on February 22, 2003 at Quezon City, Philippines despite the existence of her first marriage with Ho Kar Wai; that she has two children with Edwin, namely, xxxxxxxxxxxx and xxxxxxxxxxxx; that RTC Branch 260 rendered a Decision dated February 5, 2009 recognizing the divorce acquired by Ho Kar Wai in Hongkong; and that Maria Lina and Edwin did not obtain any substantial properties during the marriage.[14]

All of Maria Lina's proposed stipulations, except the last one, were admitted by Edwin. Meanwhile, the latter proposed to stipulate that during the subsistence of Maria Lina's previous marriage with Ho Kar Wai in 1994, Maria Lina and Edwin married again on February 22, 2003, prior to the issuance of the Decision from the RTC Branch 260 declaring her first marriage annulled. This fact was admitted by Maria Lina.[15]

Maria Lina also caused the marking in evidence of the Report of Marriage between her and Ho Kar Wai dated December 13, 1989; Certificate of Marriage between her and Ho Kar Wai dated August 23, 1994; Certificate of Marriage between her and Edwin dated February 22, 2003; Birth Certificate of xxxxxxxxxxxx; Birth Certificate of xxxxxxxxxxxx; Certificate of Finality with Entry of Judgment issued by RTC Branch 260; Decision dated February 5, 2009 rendered by RTC Branch 260; and Certification issued by the City Civil Register of Parañaque City dated May 21, 2009.[16]

Trial ensued. Maria Lina presented herself as the lone witness. She submitted her judicial affidavit and was subjected to cross-examination by the public prosecutor and to clarificatory questions by the family court. Despite service of summons by publication, Edwin did not appear in court at all. In light of the manifestation that the public prosecutor did not intend to present any evidence, the case was submitted for decision.[17]

Ruling of the RTC

On August 30, 2019, the family court rendered a Decision denying Maria Lina's petition for declaration of nullity of marriage. The dispositive portion of the family court Decision reads:

WHEREFORE, the foregoing duly considered, the court finds no reason to grant the Petition for Declaration of Nullity of Marriage based on Art. 35 paragraph 4 of the Family code. Thus, the petition is DENIED.

SO ORDERED.[18] (Emphasis in the original)

Aggrieved, Maria Lina moved for reconsideration of the Decision dated August 30, 2019, but the same was denied by the family court in an Order[19] dated December 6, 2019.

Undaunted, Maria Lina filed an appeal before the CA to challenge the Decision and Order of the family court, raising the issues of whether the family court is correct in applying the case of Lasanas vs. People[20] given the factual milieu of this case; whether Maria Lina is entitled to an equity judgment rendering her marriage to Edwin null and void for being bigamous; and whether she has the capacity to re-marry.[21]

The Republic, through the OSG, filed its oppositor-appellee's brief, maintaining that the family court did not err in denying the petition for declaration of nullity of marriage because Maria Lina, being the party guilty of contracting a bigamous marriage, had no personality to file the said petition, as only the injured or aggrieved party may file the petition for declaration of nullity of marriage.[22]

On the other hand, Edwin did not file any brief.[23]

Ruling of the CA

In the assailed Decision dated June 21, 2021, the CA denied Maria Lina's appeal and affirmed the Decision and Order issued by the family court. The dispositive portion of the CA Decision reads:

WHEREFORE, the appealed Decision dated August 30, 2019 and Order dated December 6, 2019 of the trial court are AFFIRMED.

SO ORDERED. (Emphasis in the original)[24]

Hence, this petition. In entreating this Court to rule in her favor, Maria Lina raises the following issues:

First, whether Maria Lina has the personality to file before the family court the petition for declaration of nullity of her marriage with Edwin; and

Second, whether Maria Lina can remarry if the Supreme Court declares her marriage with Edwin void ab initio for being bigamous.

In a Resolution dated March 28, 2023, the Court required Edwin and the OSG to file their respective comments.

Complying with the Court's directive, the OSG filed its comment,[25] maintaining that Maria Lina has no personality to file the case, considering that she was not the spouse aggrieved or injured by the bigamous marriage.

Meanwhile, no comment has been filed by Edwin to this date.

Our Ruling

We deny the petition.

Only the aggrieved or injured innocent spouse of either marriage may petition to declare the nullity of the subsequent marriage. Inasmuch as Maria Lina is not the aggrieved or injured spouse in her prior marriage, she lacks the legal capacity to petition the declaration of nullity of her subsequent marriage.

In her petition, Maria Lina avers that without Ho Kar Wai who has the right to file for the nullification of the bigamous marriage, she is the only real party-in-interest left who may file the action to correct and make legal such unlawful act, inasmuch as Edwin cannot file for the nullification of their marriage because he is not the injured spouse of the prior subsisting marriage.

Maria Lina's claim is devoid of legal basis.

Under Article 35(4) of the Family Code, bigamous and polygamous marriages shall be considered void ab initio, as follows:

Art. 35. The following marriages shall be void from the beginning:

....

(4)

Those bigamous or polygamous marriages not falling under Article 41;

Relative thereto, the Supreme Court promulgated A.M. No. 02-11-10-SC, or the "Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages," Section 2(a) of which provides that only the spouses may petition the declaration of nullity of a void marriage. Thus:

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.

Further elucidating on Section 2(a) of A.M. No. 02-11-10-SC, the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders[26] (Rationale) was issued. It states that an action for the declaration of nullity of a void marriage may be filed solely by the aggrieved or injured spouse, to wit:

(1)

Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages ...

We had an opportunity to apply the foregoing provision of A.M. No. 02-11-10-SC, in relation to its Rationale, in *Juliano-Llave v. Republic of the Philippines*.^[27] In the said case, the first wife filed a complaint for the declaration of nullity of marriage between the deceased husband and the second wife on the grounds of bigamy. The second wife challenged the legal standing of the first wife to question the validity of the subsequent marriage, contending that only the bigamous spouses may assail their own void marriage under A.M. No. 02-11-10-SC. In resolving such issue in favor of the first wife and finding that she has legal personality to file the petition, the Supreme Court highlighted the provision of the Rationale which categorically states that "[o]nly an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages."^[28] The Court ratiocinated as follows:

Note that the Rationale makes it clear that Section 2 (a) of A.M. No. 02-11-10-SC refers to the "aggrieved or injured spouse." If [second wife] Estrellita's interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will

always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[29] (Emphasis supplied)

Subsequently, in *Fujiki v. Marinay*,[30] the Court clarified that the husband and the wife contemplated under Section 2(a) of A.M. No. 02-11-10-SC pertain to the spouses of the prior subsisting marriage because the parties in a bigamous marriage are neither the husband nor the wife in the eyes of the law. In *Fujiki*, the first husband, a Japanese, obtained a judgment from a family court in Japan which declared the marriage between the wife, a Filipina, and the second husband, also Japanese, void on the ground of bigamy. Thereafter, the first husband filed before a Philippine RTC a petition for judicial recognition of the judgment of the Japanese family court, and for declaration of the bigamous marriage as void ab initio. The court held that the first husband had personality to file the said petition, because the judgment concerned his civil status. We accordingly explained that:

Section 2 (a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2 (a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife" — it refers to the husband or the wife of the subsisting marriage. Under Article 35 (4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2 (a) of A.M. No. 02-11-10-SC.

....

When the right of the spouse to protect his marriage is violated, the spouse is clearly an injured party and is therefore interested in the judgment of the suit. *Juliano-Llave* ruled that the prior spouse "is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse." Being a real party in interest, the prior spouse is entitled to sue in order to declare a bigamous marriage void...[31] (Citations omitted; emphasis in the original; italics supplied)

In the present case, it is undisputed that Maria Lina and Ho Kar Wai, a Chinese, were married in 1989 in Hong Kong and 1994 in Parañaque City. While Maria Lina was still lawfully married to Ho Kar Wai, she married Edwin in 2003 in Quezon City. It was only in 2007, or four years after Maria Lina's nuptial with Edwin, that Ho Kar Wai obtained the divorce decree from the district court of Hong Kong. It was even later, particularly in 2009, that RTC Branch 260 rendered the decision that recognized such divorce decree in the Philippines.

Evidently, Maria Lina is guilty of contracting a bigamous marriage because she was wedded to Edwin while her marriage with Ho Kar Wai was still subsisting. Consequently, she cannot be deemed an aggrieved or injured innocent spouse of either marriage and therefore lacks the personality to petition the nullification of her subsequent marriage.

In her petition, Maria Lina contends that *Juliano-Llave* is inapplicable to her case because it involved a compulsory heir who was neither the husband nor the wife. She likewise insists that the evils sought to be prevented by the lawmakers, as cited in the aforementioned case, are not present in this case because: (1) her prior marriage was already dissolved by the divorce obtained by Ho Kar Wai; (2) there is no longer an injured party as Ho Kar Wai already terminated their marriage through the divorce decree; (3) there were no properties between her and Ho Kar Wai; (4) there is no longer a previous marriage to be protected by the Constitution; and (5) there is no criminal, civil, or administrative case that she wants to avoid.[32]

As a corollary, Maria Lina submits that in view of Article 35(4) of the Family Code, which expressly provides that bigamous marriages shall be void from the beginning, We have no other recourse but to declare her marriage

to Edwin as void. She asserts that the refusal to nullify such marriage has the effect of legalizing the same, which is contrary to law. She concludes that should the Court grant her petition, no one will be hurt since neither the previous husband nor the State will be prejudiced if the subsequent bigamous marriage is nullified.[33]

Maria Lina's arguments fail to convince us.

At the outset, We note that in *Juliano-Llave*, the first wife was, in fact, one of the complainants who petitioned the declaration of nullity of the subsequent marriage. It is therefore beyond cavil that the pronouncement in the said case is relevant here.

Moreover, even if We grant, for the sake of argument, that the emotional burden to the prior spouse and the threat to the financial aspect of the prior marriage are no longer present in this case due to the divorce obtained by Ho Kar Wai, this does not have the effect of transforming Maria Lina into the aggrieved spouse and vesting her with the personality to file the petition for the declaration of nullity of her bigamous marriage to Edwin. On the contrary, it could be argued that Maria Lina benefited from the second illicit matrimony, as may be inferred from her having two children with Edwin, and from the duration of their relations after wedlock. To underscore, the bigamous marriage was contracted in 2003, and Maria Lina filed the petition for declaration of its nullity only in 2017, or after 14 years.

Maria Lina anchors her arguments on the erroneous presumption that the State is burdened with the obligation to declare bigamous marriages as null and void. Perforce, she holds the misplaced conviction that on account of the divorce secured by Ho Kar Wai, who stood as the injured party in the prior subsisting marriage as contemplated by the applicable law and rules, she effectively became entitled to petition the declaration of nullity of her marriage to Edwin.

Unfortunately for Maria Lina, as may be logically deduced from the mere existence and the categorical provisions of the pertinent rules and prevailing jurisprudence, the State does not have an absolute responsibility to dissolve bigamous marriages irrespective of the circumstances of the case and the acts and omissions of the parties involved. The intention behind the relevant rules and applicable jurisprudence is to preserve marriage, not to provide the guilty spouses in a bigamous marriage a convenient means to dissolve their illegitimate union.

Granting, *arguendo*, that a marriage is indeed void *ab initio* for being bigamous, the same still has to be judicially declared void in order that the parties-in-interest may avail of the right to remarry. In this regard, it is worth noting that such legal capacity to remarry is the only benefit solely ensuing from the rectification of civil status through a declaration of nullity of marriage. For all other legal intents and purposes, a bigamous marriage is void and its absolute nullity may be invoked by any concerned person. This has already been settled by the Court in the following wise:

... for purposes other than remarriage, no judicial action is necessary to declare a marriage an absolute nullity. For other purposes, such as but not limited to the determination of heirship, legitimacy or illegitimacy of a child, settlement of estate, dissolution of property regime, or a criminal case for that matter, the court may pass upon the validity of marriage even after the death of the parties thereto, and even in a suit not directly instituted to question the validity of said marriage, so long as it is essential to the determination of the case...[34]
(Emphasis supplied)

Simply put, under Article 40 of the Family Code, the marital vinculum of a previous marriage that is void *ab initio* subsists only for purposes of remarriage.[35] Given this legal milieu, it becomes apparent that the ultimate objective for Maria Lina's petition for the declaration of nullity of her bigamous marriage is to attain the capacity to remarry. Lamentably for Maria Lina, under the current rules and jurisprudence, there exists no legal recourse for her to redress her inability to remarry, which she inflicted on herself to begin with.

To reiterate, A.M. No. 02-11-10-SC, together with the Rationale and the case law on this matter, govern cases involving void and voidable marriages, including the right of persons to file the petition for declaration of nullity of void marriages on the ground of bigamy. It is unequivocal from these pronouncements that there is neither legal nor factual basis to hold that the absence of persons capacitated to file the said petition, or their disqualification because of supervening events, automatically confers unto other concerned parties the right to bring forth the action to assail the bigamous marriage.

In this case, Ho Kar Wai was the injured spouse in the prior subsisting marriage. As such, he had the right to file a petition for the declaration of nullity of the marriage between Maria Lina and Edwin. However, after Ho Kar Wai secured the divorce decree from Hong Kong, his marital relations with Maria Lina legally ceased. As there was no longer a prior subsisting marriage to speak of, Ho Kar Wai lost his status as the aggrieved spouse in the subsisting marriage. As a result, he can no longer file the subject petition. However, consistent with the foregoing discourse, even after Ho Kar Wai was divested of his standing as the injured spouse in a subsisting marriage, and the appurtenant legal personality to petition the declaration of nullity of the subsequent marriage between Maria Lina and Edwin, the same did not render Maria Lina eligible to file the said petition. The divorce decree secured by Ho Kar Wai in no way resulted in the assignment of the right to petition the declaration of the bigamous marriage to Maria Lina.

At this juncture, it must be emphasized that in the declaration of nullity of a void marriage, the underlying purpose is the protection of the legitimate institution of marriage. In fact, the Rationale explicitly declares that the concern of the State is to preserve marriage and not seek its dissolution. In contrast, it is apparent here that the purpose of Maria Lina in seeking the declaration of nullity of her marriage to Edwin is not to recognize her previous marriage to Ho Kar Wai but to acquire the right to remarry.

Although Maria Lina hit the nail on the head when she noted that there is no longer a legitimate marriage to protect because of the divorce decree obtained by Ho Kar Wai, she failed to realize that in the absence of such legal union as an object of protection, there exists no compelling reason for the State to dissolve her illegitimate marriage with Edwin.

It must be recapitulated that based on the rules and jurisprudence, the aggrieved or injured innocent spouse of either marriage has the sole right to file the petition for the declaration of nullity of the bigamous marriage. Proceeding therefrom, it is implicit that such petition cannot be filed by the erring spouse. Otherwise, it will give rise to a ridiculous situation wherein the party who contracted the illicit subsequent marriage is permitted to invoke the bigamous nature thereof in support of the petition to nullify the same. This results in a legal absurdity, as the offending spouse is essentially empowered to dissolve the marriage at will. In the latter case, instead of being treated as a transgression warranting redress, bigamy will be treated by the erring spouse as a matter of convenience.

Asserting that there is no other person who may legally file the subject petition, insofar as the aggrieved spouse, Ho Kar Wai, was already granted a divorce decree, and the husband in the subsequent marriage, Edwin, was aware of the bigamous nature thereof, Maria Lina implores Us to exercise our equity jurisdiction to remedy her inability to remarry.

The Court is constrained to reject Maria Lina's pleas, in accordance with Our ruling in *Alcantara v. Alcantara*.^[36] In that case, the husband filed against his wife a petition to declare their marriage void, alleging that they contracted their nuptials without securing the required license and that they dealt with a fixer who arranged everything for them. In holding in favor of the validity of the marriage, We, in pertinent part, declined to exercise Our equity jurisdiction to extricate the erring husband from a void marriage that he himself willfully contracted.

Thus:

Under the principle that he who comes to court must come with clean hands, petitioner [husband] cannot pretend that he was not responsible or a party to the marriage celebration which he now insists took place without the requisite marriage license. Petitioner admitted that the civil marriage took place because he "initiated it." Petitioner is an educated person. He is a mechanical engineer by profession. He knowingly and voluntarily went to the Manila City Hall and likewise, knowingly and voluntarily, went through a marriage ceremony. He cannot benefit from his action and be allowed to extricate himself from the marriage bond at his mere say-so when the situation is no longer palatable to his taste or suited to his lifestyle. We cannot countenance such effrontery. His attempt to make a mockery of the institution of marriage betrays [sic] his bad faith.[37] (Citations omitted; emphasis supplied)

As a final note, We address the unfounded and haphazard conjectures of Maria Lina.

First, with respect to her belief that the denial of her petition has the general effect of legalizing bigamous marriages, We hold that this is definitely not the import of this Decision. The denial of Maria Lina's petition is not a refusal to declare her bigamous marriage void, but rather a repudiation of Maria Lina's legal personality to file the said petition. Certainly, this is not tantamount to legalizing bigamous marriages, considering that erring and offending parties may still be held civilly and criminally liable for bigamy. In addition, it should be restated that other legal incidents related to the nullity of the marriage, such as the determination of heirship; legitimacy or illegitimacy of a child; settlement of estate; and dissolution of property regime,[38] among others, may still proceed independently and in the absence of a declaration as to the invalidity of the bigamous union.

Second, as regards Maria Lina's claim that no one will get hurt, We find the same bereft of merit. On the contrary, yielding to her position, and allowing the offending spouse to file a petition for the declaration of nullity of the bigamous marriage, even when the latter intentionally caused such illegitimacy and benefited from its convenience for a considerable length of time, as in the present case, will inevitably bastardize the institution of marriage to the prejudice of the State.

ACCORDINGLY, the Petition for Review on Certiorari is DENIED. The Decision dated June 21, 2021 and the Resolution dated November 16, 2021 of the Court of Appeals, in CA-G.R. CV No. 114777, are AFFIRMED.

SO ORDERED.

Inting, M. Lopez, J. Lopez, Dimaampao, Marquez, and Kho, Jr., JJ., concur.

Gesmundo, C.J., see concurring opinion.

Leonen, SAJ., I dissent. I join the dissent of Justices Javier and Zalameda.

Caguioa, J., see concurring opinion.

Hernando,[*] J., on official business. I joint Dissenting Opinion of Justice Javier.

Lazaro-Javier, J., please see dissent.

Zalameda, J., please see dissenting opinion.

Gaerlan,**] J., on official leave.

Singh, J., see separate concurring opinion.

[*] On official business.

[**] On official leave.

[1] Rollo, pp. 10-24.

[2] Id. at 26-42. The June 21, 2021 Decision in CA-G.R. CV No. 114777 was penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura.

[3] Id. at 44-45. The November 16, 2021 Resolution in CA-G.R. CV No. 114777 was penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura.

[4] Id. at 27.

[5] Id.

[6] Id. at 27-28.

[7] Id. at 28.

[8] Id.

[9] Id.

[10] Id. at 28-29.

[11] Id. at 29.

[12] Id.

[13] Id. at 29-30.

[14] Id. at 30.

[15] Id.

[16] Id. at 31.

[17] Id.

[18] Id. at 53.

[19] Id. at 32.

[20] 736 Phil. 735, 745 (2014) [Per J. Bersamin, First Division].

[21] Rollo, p. 32.

[22] Id.

[23] Id.

[24] Id. at 41-42.

[25] Id. at 85-100.

[26] 8 Court Systems J. No. 2, 72 (June 2003).

[27] 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[28] Id. at 223.

[29] Id. at 223-224.

[30] 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].

[31] Id. at 550-552.

[32] Rollo, pp. 15-16.

[33] Id. at 18-19.

[34] Cariño v. Cariño, 403 Phil. 861, 868 [Per J. Ynares-Santiago, First Division].

[35] J. Carpio, Concurring Opinion in Abunado v. People, 470 Phil. 420, 433 (2004) [Per J. Ynares-Santiago, First Division].

[36] 558 Phil. 192 (2007) [Per J. Chico-Nazario, Third Division].

[37] Id. at 206.

[38] Cariño v. Cariño, 403 Phil. 861 (2001) [Per J. Ynares-Santiago, First Division].

CONCURRING OPINION

GESMUNDO, C.J.:

This case stems from a petition for declaration of nullity of marriage filed by Maria Lina P. Quirit-Figarido (Maria Lina) against her spouse, Edwin L. Figarido (Edwin), on the ground that their marriage is bigamous.[1]

Maria Lina entered into her first marriage with Ho Kar Wai, a Chinese national, in Hong Kong in 1989. In 1994, they remarried in the Philippines. Subsequently, however, Maria Lina and Ho Kar Wai became separated in fact. Sometime in 2000, Maria Lina met Edwin, and the latter courted her. In 2003, despite her subsisting marriage with Ho Kar Wai, Maria Lina entered into a second marriage with Edwin. In 2007, Ho Kar Wai obtained a Divorce Decree against Maria Lina in Hong Kong, absolving their marriage. In 2009, the Regional Trial Court (RTC) granted Maria Lina's petition for recognition/enforcement of foreign judgment, officially recognizing her divorce from Ho Kar Wai.[2]

Sometime in 2014, Maria Lina and Edwin separated. In 2017, Maria Lina filed a petition for declaration of nullity of marriage against Edwin. The RTC denied this petition in its August 30, 2019 Decision. The Court of Appeals likewise denied Maria Lina's appeal in its June 21, 2021 Decision. Hence, Maria Lina filed the instant Petition for Review on Certiorari before this Court.[3]

The ponencia denies the Petition. It cites the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders, which states that only the aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. In this case, Maria Lina is not the injured spouse because she was the one who entered into the subsequent marriage knowing fully well that she had an existing marriage with Ho Kar Wai. Further, the ponencia declares that the State does not have a mandatory obligation to dissolve bigamous marriages.[4]

I concur in the ponencia. I believe that the Court should not lend aid to Maria Lina in her attempt to remarry, after she knowingly and willingly brought about and reaped the fruits of her bigamous act.

There is no question that the marriage between Maria Lina and Edwin is void for being bigamous. The issue before the Court in the instant case is not with regard to the characterization of the marriage between Maria Lina

and Edwin, but with regard to the interpretation of the rules as to who should be allowed to petition for court relief. In ruling on this issue, it is my humble view that the Court should be guided by the principle that the rules of procedure should not be interpreted or applied in a way that would benefit wrongdoers or that would be contrary to public policy.

With this in mind, it is my position that 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), which provides that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife," should be read so as to exclude from its coverage those husbands or wives who are guilty of knowingly and willingly entering bigamous marriages. In other words, persons who commit bigamy, and who later come to court to seek relief from their own bigamous marriages, should not be entertained.

Such a position is consistent with the Court's ruling in *Juliano-Llave v. Republic*.^[5] In that case, the Court ruled that, in a bigamous marriage, the aggrieved or injured spouse with the personality to file a petition for declaration of nullity of marriage is the spouse in the subsisting previous marriage.^[6] It was explained that:

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.^[7] (Emphasis supplied)

My position is, furthermore, founded on the basic principle that one who seeks equity and justice must come to court with clean hands, and on the age-old maxim *ex dolo malo non oritur actio* – no man can be allowed to found a claim upon his own wrongdoing.^[8] Thus, a litigant may be denied relief by a court of equity on the ground that his conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.^[9]

In *Acabal v. Acabal*,^[10] the Court, in denying affirmative relief to one of the parties who did not come to court with clean hands, had occasion to explain the rationale behind the *pari delicto* doctrine.^[11] I believe the Court's reasoning in that case is just as fitting in the instant case. The Court said in *Acabal*:

The principle of *pari delicto* is grounded on two premises: first, that courts should not lend their good offices to mediating disputes among wrongdoers; and second, that denying judicial relief to an admitted wrongdoer is an effective means of deterring illegality. This doctrine of ancient vintage is not a principle of justice but one of policy as articulated in 1775 by Lord Mansfield in *Holman v. Johnson*:

The objection, that a contract is immoral or illegal as between the plaintiff and defendant, sounds at all times very ill in the mouth of the defendant. It is not for his sake, however, that the objection is ever allowed; but it is founded in general principles of policy, which the defendant has the advantage of, contrary to the real justice, as between him and the plaintiff, by accident, if I may so say. The principle of public policy is this; *ex dolo malo non oritur actio*. No court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act. If, from the plaintiff's own stating or otherwise, the cause of action appears to arise *ex turpi causa*, or the transgression of a positive law of this country, there the court says he has no right to be assisted. It is upon that ground the court goes; not for the sake of the defendant, but because they will not lend their aid to such a plaintiff. So if the plaintiff and the defendant were to change sides, and the defendant was to bring his action against the plaintiff, the latter would then have the advantage of it; for where both are equally in fault *potior est conditio defendentis*.^[12] (Emphasis supplied, citation omitted)

In the instant case, Maria Lina is guilty of contracting a subsequent bigamous marriage with Edwin while her earlier marriage with Ho Kar Wai was still subsisting. In fact, she not only admits to entering a marriage prohibited by law, but openly invokes the illegal nature of the same to obtain permission to remarry. Underhanded tactics such as this should not be tolerated by the Court.

Bigamy is a crime punishable by law.[13] To give Maria Lina what she wants in the instant case would be to grant her an easy and convenient way out of a relationship she knowingly entered in mockery of the law. In effect, the Court would be rewarding her for committing a crime. Beyond the instant case, such a decision might have the repercussion of encouraging bigamy for those couples who desire the semblance of a marriage, but without its full commitment. I therefore agree with the esteemed ponente and Justice Caguioa's concurring opinion that the foremost consideration of the Court in the instant case should be the protection of the legitimate institution of marriage, and that to grant Maria Lina's Petition would be to reward her for a wrongdoing and "make a mockery of the institution of marriage." [14]

On this point, it may be useful to mention other instances where the Court applied equity principles and denied relief to parties in cases where the issues related to marriage or family laws. These cases illustrate that, in marriage or family law cases as much as in other cases, the Court will not hesitate to deny relief to petitioners who are guilty of inequity or bad faith, or who come to court with unclean hands.

In *Villanueva v. Dadivas de Villanueva*, [15] the husband left his wife and children without means of support, despite a court judgment ordering him to support his family. When the judgment became final, a writ of execution was issued and some of the husband's properties were seized and sold by the sheriff. [16] The wife bought in the properties during the sale. [17] The husband asked the trial court to have the deeds of sale annulled, on the ground that a married woman cannot purchase at a sale without the consent of her husband. [18] The Court, in denying relief to the husband, held:

Annulment of a deed given by a sheriff is an equitable action, and he that comes into a court of equity must do so with clean hands. Certainly appellant in this case has no grounds to appeal to a court of equity in a suit in which his wife is concerned. He has violated his marital obligations and yet seeks to exercise the power which the law gives to the husband for the protection of the conjugal partnership, not for the protection of the partnership, not for the protection of the home, but to leave his wife and minor children in absolute want.

Appellant overlooks the fact that the law authorized the wife to secure the judgment against him. She has the same rights to a writ of execution and to follow through thereon as any party litigant. If it is necessary for her protection to bid in the property at a sheriff's sale, the husband has no power whatsoever to defeat her rights by a claim of being the head and manager of the conjugal partnership. In fact in many instances it might well be that the purchase by the wife would be to the benefit of the conjugal partnership rather than that the property should be bought in by an outsider for an inadequate sum. [19] (Emphasis supplied)

In *Honrado v. Court of Appeals*, [20] the petitioner's family home was sold at public auction. After the sale became final and petitioner failed to redeem the property, petitioner filed a motion to declare properties exempt from execution under Article 155 of the Family Code. [21] The Court denied relief to the petitioner, noting that he did not object to the levy and sale of his family home, vacated the property after the sale, and remained silent and failed to seek court relief until long after the sale became final. [22] While it is true that the family home is constituted on a house and lot from the time it is occupied as a family residence and is exempt from execution or forced sale under the Family Code, the Court held that petitioner's failure to set up the claim of exemption prior to the public auction estopped him from claiming the same. [23]

In *Heirs of Manzano v. Kinsonic Philippines, Inc.*, [24] the petitioners sold and accepted partial payments for property belonging to the conjugal partnership of their parents, before the conjugal partnership was liquidated.

They later tried to assail the validity of the contract to sell.[25] While the Family Code provides that dispositions of conjugal partnership property done without the prerequisite liquidation of assets is void, the Court noted that, among other things, the petitioners actually profited from the sale of the property and did not raise the issue of the nullity of the contract during trial.[26] Thus, the Court again denied relief to the petitioners on the ground that their estoppel and unclean hands barred their right to relief from the Court.[27]

In *Alcantara v. Alcantara*,[28] the parties were married using a sham marriage license. When the husband filed a petition for annulment of marriage, the Court held that the defect in the marriage license was a mere irregularity that did not affect the validity of the marriage.[29] Furthermore, the Court noted that the husband initiated the marriage and knowingly and voluntarily went through the marriage ceremony.[30] Applying the doctrine of unclean hands, the Court held that the husband "cannot benefit from his action and be allowed to extricate himself from the marriage bond." [31]

Finally, the instant case must be distinguished from the recent case of *Clavecilla v. Clavecilla*[32] where the Court held that the principle of unclean hands will not bar a psychologically incapacitated spouse from initiating a proceeding to annul a marriage. In that case, the Court emphasized that:

This is because there is no party at fault in case of annulment of marriage based on psychological incapacity. Culpability cannot be imputed on the part of the spouse said to be psychologically incapacitated since it is not deliberate or intentional on his or her part to possess such personality trait. By reason of psychological incapacity, it cannot be said that bad faith had motivated the afflicted spouse to enter into a marriage or to even seek for a declaration of its nullity. It must be emphasized that the unclean hands doctrine only avails in cases of inequity, which does not exist in a marriage sought to be annulled on the basis of psychological incapacity of a spouse to comprehend and discharge the concomitant marital obligations.[33] (Emphasis supplied)

In stark contrast to the petitioner in *Clavecilla*, Maria Lina is clearly at fault for entering into a bigamous marriage, and the principle of unclean hands should apply. Again, Maria Lina voluntarily entered into the marriage with Edwin, knowing fully well that at the time of their marriage in 2003, she was still lawfully wed to Ho Kar Wai. Indeed, she perceptively entered into a bigamous marriage, and therefore does not have the required clean hands to set aside the same. The spouses who knowingly enter into a bigamous marriage, being in *pari delicto*, should have no action against each other, and the law shall leave them where it finds them.[34]

To conclude, for reasons of equity and public policy, persons who are guilty of bigamy should be refused standing when they file petitions for declaration of nullity of their own bigamous marriages. Maria Lina, being the party at fault, cannot invoke this Court's aid in her attempt to extricate herself from her bigamous marriage with Edwin. Thus, Maria Lina's Petition for Review on Certiorari should be denied.

ACCORDINGLY, I CONCUR in the ponencia and vote to DENY the Petition.

[1] Ponencia, p. 2.

[2] *Id.* at 2-3.

[3] *Id.* at 3-5.

[4] *Id.* at 6, 8-9.

[5] 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[6] *Id.* at 223.

[7] Id. at 223-224.

[8] *Spouses Serrano v. Court of Appeals*, 463 Phil. 77, 93 (2003) [Per J. Callejo, Sr., Second Division]; *Titong v. Court of Appeals*, 350 Phil. 544, 556 (1998) [Per J. Romero, Third Division].

[9] *Knights of Rizal v. DMCI Homes, Inc.*, 809 Phil. 453, 540 (2017) [Per J. Carpio, En Banc].

[10] 494 Phil. 528 (2005) [Per J. Carpio Morales, Third Division].

[11] Id. at 547.

[12] Id. at 548-549.

[13] REVISED PENAL CODE, art. 349.

[14] Ponencia, pp. 11-12; J. Caguioa, Concurring Opinion, p. 5.

[15] 59 Phil. 664 (1934) [Per J. Hull].

[16] Id. at 665.

[17] Id.

[18] Id. at 665-666.

[19] Id. at 666.

[20] 512 Phil. 657 (2005) [Per J. Callejo, Sr., Second Division].

[21] Id. at 660.

[22] Id. at 665.

[23] Id. at 666.

[24] G.R. No. 214087, February 27, 2023 [Per J. Gaerlan, Third Division].

[25] Id. at 2. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[26] Id. at 12-13.

[27] Id. at 13.

[28] 558 Phil. 192 (2007) [Per J. Chico-Nazario, Third Division].

[29] Id. at 207.

[30] Id. at 206.

[31] Id.

[32] G.R. No. 228127, March 6, 2023 [Per C.J. Gesmundo, First Division].

[33] Id. at 14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[34] See *Ranara, Jr. v. De Los Angeles, Jr.*, 792 Phil. 571, 578 (2016) [Per J. Reyes, Third Division].

CONCURRING OPINION

CAGUIOA, J.:

I concur in denying the present Petition.

Condemning the guilty party in a bigamous marriage to perpetual incapacity to remarry is not too harsh a punishment imposed upon the act of travesty committed by such party in trifling with marriage as an inviolable social institution which the Constitution protects and cherishes. This dire consequence of knowingly entering into a bigamous marriage should serve as a stern warning to everyone that this Court will not lend its hand to extricate one who intentionally makes a mockery of the sanctity of marriage.

The main issue in this case is whether a bigamous spouse has the legal personality to nullify her second marriage based on bigamy which, if granted, would allow her to remarry.

Section 2(a) of A.M. No. 02-11-10-SC[1] provides that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife." In *Juliano-Llave v. Republic of the Philippines*,[2] the Court cited the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders[3] (Rationale of the Rules on Annulment) and clarified that in bigamy cases, Section 2(a) refers to the "aggrieved or injured spouse," who may be: (i) the subsequent spouse who only discovered the bigamous nature of the marriage after it was contracted; or (ii) the prior spouse in the subsisting marriage.[4] The Court explained:

Note that the Rationale makes it clear that Section 2(a) of A.M. No. 02-11-10-SC refers to the "aggrieved or injured spouse." If *Estrellita's* interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[5] (Emphasis supplied)

Minoru Fujiki v. Marinay[6] reiterated *Juliano-Llave* and the Rationale of the Rules on Annulment but limited Section 2(a) to just the prior spouse of the subsisting marriage. Thus:

Section 2(a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife"[—]it refers to the husband or the wife of the subsisting marriage. Under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2(a) of A.M. No. 02-11-10-SC.

....

When the right of the spouse to protect his marriage is violated, the spouse is clearly an injured party and is therefore interested in the judgment of the suit. *Juliano-Llave* ruled that the prior spouse "is clearly the

aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse." Being a real party in interest, the prior spouse is entitled to sue in order to declare a bigamous marriage void. ...[7] (Emphasis supplied; citations omitted)

As correctly observed by the ponencia,[8] while the underlying reasons recognized in *Juliano-Llave* (i.e., emotional burden and threat to financial and property aspect) may be said to be no longer present in this case because of the subsequently obtained divorce of Maria Lina P. Quirit-Figarido (Maria Lina) and Ho Kar Wai, this circumstance results only in depriving Ho Kar Wai of the personality to assail the validity of Maria Lina's marriage with Edwin L. Figarido (Edwin). That is all.

I also agree with the ponencia's reiteration[9] of the ruling in *Juliano-Llave*, that even an innocent spouse in the bigamous marriage may be considered an aggrieved spouse under Section 2(a) of A.M. No. 02-11-10-SC. In this case, however, Edwin (the subsequent spouse) cannot be considered an aggrieved spouse because he knew of the marriage of Maria Lina to Ho Kar Wai when he consented to having an extramarital affair with Maria Lina.[10]

Maria Lina, not being the aggrieved spouse in the prior marriage, nor the innocent spouse in the second marriage, has no right or personality to nullify the bigamous marriage.

I respectfully submit that the Court should maintain its ruling in *Juliano-Llave* that only the aggrieved or injured spouse (whether of the prior marriage or the subsequent marriage) has the personality to nullify a marriage on the ground of bigamy.

I emphasize that this is not a case where Maria Lina thought in good faith that she was no longer married to Ho Kar Wai when she married Edwin and now simply wants to "right a wrong" or to "correct" the legal status of her marriage with the second spouse. From the facts in the ponencia, Maria Lina knowingly had an extramarital affair with Edwin, and then married him while her marriage to Ho Kar Wai was still subsisting. And after 14 years of marriage and two children with Edwin, she now decides that she wants to free herself from her marriage to Edwin so that she can yet marry another person. As the erring spouse, does she have the right to nullify her own bigamous marriage under the law for purposes of remarriage? Articles 35[11] and 40[12] of the Family Code[13] are silent.

Should we interpret Article 40 of the Family Code or Section 2(a)[14] of A.M. No. 02-11-10-SC so as to allow her to do so? I strongly believe that we should not.

"Under Article 40 of the Family Code, the marital vinculum of a previous marriage that is void ab initio subsists only for purposes of remarriage. For purposes other than remarriage, marriages that are void ab initio, such as those falling under Articles 35 and 36 of the Family Code, are void even without a judicial declaration of nullity." [15]

In a petition for declaration of nullity of marriage, the ultimate relief provided to petitioner is the severance of the vinculum between the spouses of the bigamous marriage. As seen from the rationale underlying the Court's pronouncement in *Juliano-Llave*, this relief, in cases involving bigamy, is given to the aggrieved spouse because it is he or she who was emotionally injured or whose finances and properties are threatened by the bigamous spouse's act of contracting a bigamous marriage. The innocent spouse in the bigamous marriage also suffers the same injury and threat. I submit that it is that "injury" that gives the aggrieved spouse of the prior marriage or of the bigamous marriage the legal personality to nullify the bigamous marriage. In such a case, the Court will provide redress to the injured party by declaring void the bigamous marriage and dissolving it in accordance with law.

In contrast, what injury does a bigamous spouse suffer from his or her act of knowingly contracting a bigamous marriage? There is none. He or she is the erring party in the eyes of the law. And so is the second spouse if he or she knew of the prior subsisting marriage upon entering the bigamous marriage. This is precisely why their act is considered a Crime Against the Civil Status of Persons and punished under Article 349 of the Revised Penal Code.

In the present case, the only apparent "injury" suffered by Maria Lina is her inability to remarry. But there lies the rub—this is really not a grievance that warrants redress. Her situation now would not be any different if Ho Kar Wai had not divorced her, as she would still have no ability to remarry (being still bound by the first marriage). That the divorce obtained by Ho Kar Wai rendered impossible the remedy of having Maria Lina's marriage to Edwin nullified does not make her an aggrieved spouse. Ho Kar Wai's personality to nullify her second marriage did not transfer to her upon the divorce.

I agree that the protection afforded by the law to marriages does not apply to those which are void ab initio.[16] But it does not necessarily follow that the courts are bound to nullify Maria Lina's marriage in the present case and allow her to remarry.

To be sure, Maria Lina's interest in dissolving her bigamous marriage so that she can remarry should be weighed against the State's policy of protecting the sanctity and inviolability of the social institution of marriage. Thus, to me, the guiding question should be—would the Court be promoting the sanctity and inviolability of marriage, as a social institution, by allowing a bigamous spouse the convenience of terminating his or her marriage at will for the purpose of remarrying? And the answer to that question should be a "no."

A bigamous spouse who knowingly and voluntarily entered into a bigamous marriage should not be allowed to benefit from his or her action and be allowed to free himself or herself from the marriage bond at his or her mere say-so when the situation is no longer palatable to his or her taste or suited to his or her lifestyle.[17] That would make a mockery of the institution of marriage. Having debased the marriage institution by committing bigamy, the guilty spouse should not be allowed to commit another transgression by terminating his or her bigamous marriage just so he or she can remarry again.

It is incongruous, to say the least, to criminally punish the bigamous spouse and yet, in the same instance, allow her the convenience of dissolving her marriage if and when she decides to remarry. In the end, denying Maria Lina the personality to nullify her marriage should be seen as protecting the sanctity of marriage as an institution. Any conflict between the sanctity of marriage as an institution, on one hand, and Maria Lina's interest in remarrying, on the other, should be resolved in favor of the former.

To be clear, Maria Lina's bigamous marriage is void and no judicial declaration is necessary for it to be treated as such, except only in the case of remarriage. Denying personality to the bigamous spouse would not result in the proliferation of bigamous marriages as these marriages may still be attacked, in cases such as settlement of estate,[18] actions for support,[19] and partition of estate.[20] The only effect of denying the petition is denying Maria Lina her desire to remarry.

Moreover, on the assumption that Section 2(a) of A.M. No. 02-11-10-SC, as interpreted in *Fujiki and Julianio-Llave*, and Article 40 of the Family Code remain obscure or insufficient, thereby calling the Court to exercise its equity jurisdiction,[21] I submit that Maria Lina's petition should still be denied. This Court has held that:

He who seeks equity must do equity, and he who comes into equity must come with clean hands. The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a court of equity on the ground that his conduct has

been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.[22] (Citation omitted)

In the present case, Maria Lina obviously does not come to Court with clean hands. She and Edwin are in *pari delicto*. They married each other knowing fully well that Maria Lina was still married to Ho Kar Wai. The Court should not render aid and should leave them as they are.

I therefore concur in the ponencia's application of the doctrine of unclean hands. The said doctrine is consistent with the ponencia's ruling that only the innocent spouse of either the prior or the subsequent bigamous marriage has the personality to file the suit for annulment.

Associate Justice Amy C. Lazaro-Javier (Justice Lazaro-Javier) opines that the doctrine of unclean hands does not apply in a suit to annul a bigamous marriage, citing the United States (US) case of *Townsend v. Morgan*.^[23] In that case, Arthur James Townsend (Arthur) married Cleo Elberta Reed (Cleo) in Illinois in 1930. In the same year, they voluntarily separated, and Cleo left the State of Maryland. In 1940, after nine years of not hearing from Cleo, Arthur entered into a second marriage with Elsie Morgan. In 1942, after he was alerted to the possibility that Cleo was still alive and had not obtained a divorce from him, he obtained a divorce from Cleo. Arthur and Elsie eventually separated, and in 1948, he learned that Cleo was indeed still alive and did not divorce him prior to his marriage with Elsie. He thus sought the annulment of his marriage with Elsie on the ground of bigamy. Upon motion, the lower court dismissed the complaint on the ground that Arthur was barred from equity relief by the doctrine of unclean hands.

The Court of Appeals of Maryland reversed the lower court, holding that the unclean hands doctrine is not applicable when the result sustains a relation which is contrary to law or public policy. Further, by seeking to annul his bigamous marriage, the bigamous spouse is deemed to have repented for his wrongdoing and now seeks the court to correct his wrongful act. Thus:

It is generally accepted that the equitable maxim that he who comes into equity must come with clean hands cannot be applied in any case where the result of the application sustains a relation which is denounced by statute or is contrary to public policy. *Heflinger v. Heflinger*, 136 Va. 289, 118 S.E. 316, 32 A.L.R. 1088; *Simmons v. Simmons*, 57 App. D.C. 216, 19 F.2d 690, 54 A.L.R. 75. In proceedings to annul a bigamous marriage, the interest of the State is paramount to the grievances of the parties directly interested. The State sponsors the sanctity of the marriage relation and the welfare of society. In some cases the interests of unborn children may be affected. There is a difference between the ordinary case where the court refuses to aid the complainant in securing benefits from his own wrongdoing and the case where the complainant desires to have a judicial declaration that a marriage is null and void. When a party files a suit for annulment of his marriage, he is deemed as coming into court repenting of his wrongdoing and asking the court to correct his wrongful act as far as possible, in order to prevent any injurious consequences which might be cast thereby in the future upon innocent persons and upon the State. For these reasons the unclean hands doctrine is not applicable in a suit to annul a bigamous marriage. The marriage status being on a different footing from contracts generally, a party may be relieved from a void marriage, although fully aware of its invalidity when contracted. *Phelps*, *Juridical Equity*, sec. 259; 1 *Bishop, Marriage, Divorce and Separation*, sec. 722; *Davis v. Green*, 91 N.J. Eq. 17, 108 A. 772; *Arado v. Arado*, 281 Ill. 123, 117 N.E. 816, 4 A.L.R. 28; *Kiessenbeck v. Kiessenbeck*, 145 Or. 82, 26 P.2d 58, 60.^[24]

It is my view, however, that *Townsend* is not applicable to the present case. US cases are not binding in this jurisdiction, more so the decisions of a court of appeals.

Neither may *Townsend* be given great or persuasive weight, for it does not appear that our family and bigamy laws were patterned after those prevailing in the State of Maryland. For instance, based on *Townsend*, it appears

that Maryland laws allow a spouse to remarry without dissolving the first marriage once the seven-year period to presume the first spouse as dead has lapsed. Should the first spouse turn out to be alive, the second marriage is treated as void. In the Philippines, however, the rule is different. Under Article 41[25] of the Family Code, before a spouse may presume the first spouse as dead for purposes of remarriage, he or she must first obtain a judicial declaration of presumptive death after the lapse of the applicable period. If the first spouse reappears and executes an affidavit of reappearance, the second marriage is treated as terminated, not void.

Furthermore, the facts in *Townsend* are not on all fours with those in the present case. In *Townsend*, Maryland's bigamy laws exempted from criminal liability a person who enters a second marriage after the first spouse has been absent for more than seven years and without knowing that first spouse is still alive. Arthur believed, although erroneously, that he could immediately enter another marriage after the lapse of such period without dissolving the first marriage. When he learned during the second marriage of the possibility that the first wife was still alive, he sought and obtained a divorce from the first marriage. The Maryland court appears to have considered these badges of good faith in not applying the unclean hands doctrine to Arthur's case. In contrast, no such good faith is claimed or apparent in the case of Maria Lina. On the contrary, the facts show that she knowingly entered into an extramarital affair with Edwin and even married him despite the subsistence of her first marriage.

More importantly, it would be inconsistent to apply the ruling in *Townsend* to the Philippine setting for the State would, on one hand, treat the erring spouse's filing of the petition for nullity as an act of repentance, yet, on the other hand, punish him or her criminally for the crime of bigamy. In other words, the State would be taking contradictory positions by prosecuting the erring spouse criminally despite having forgiven such spouse civilly. Worse, if the Court adopts the *Townsend* ruling and treats the filing of an action to nullify the bigamous marriage as an act of repentance by the bigamous spouse, that may be construed as a possible defense in a prosecution for bigamy, such that the accused may simply avoid prosecution by filing the petition for nullity (i.e., repenting to the State) prior to his conviction in the criminal court. The availability of such a defense would practically amount to a decriminalization of bigamy. The same logic applies against applying the cases of *Heflinger v. Heflinger*[26] and *Faustin v. Lewis*,[27] which are additional cases cited by Justice Lazaro-Javier that echo the rationale in *Townsend*.

Justice Lazaro-Javier also cites the case of *Cariaga v. Republic*,[28] where the Court rejected the Office of the Solicitor General's (OSG) argument that the unclean hands doctrine bars the petitioner therein from filing the petition for declaration of nullity of marriage since therein petitioner admitted that neither she nor her husband applied for a marriage license. According to the Court, if the said doctrine is applied, it would operate to validate marriages which the law considers void. Thus:

As a final note, the Court recognizes that Lovelle's testimony to the effect that she and Henry did not apply for a marriage license, and that they acquiesced to their parents' advice to "assist with the documentary requirements of their intended civil wedding," appears to show that she willingly acceded to the possibility that a spurious marriage license had been presented to the solemnizing officer during the ceremony.

That said, the Court also recognizes that in petitions to declare the absolute nullity of marriage based on the absence of a valid marriage license, testimony of this nature should not ipso facto preclude a finding of nullity on the ground that parties who come to court must do so with clean hands. To be sure, a marriage contracted despite the absence of a marriage license necessarily implies some sort of irregularity. Nevertheless, such irregularity, as well as any liability resulting therefrom, must be threshed out and determined in a proper case filed for the purpose. It is in that separate proceeding where the party or parties responsible for the irregularity would be ascertained. A contrary ruling would operate to validate marriages which the law itself declares void.[29]

Justice Lazaro-Javier argues that Cariaga must be applied in the present case because it forms part of the law of the land and settles the conflicting views on the application of the unclean hands doctrine.

Again, I respectfully disagree.

In Cariaga, the petitioning wife admitted that she and her husband did not personally apply for a marriage license as it was her parents who took care of this, and the other documents required for their wedding. During trial, the wife presented a certificate issued by the local civil registrar that the marriage license number indicated in the spouse's marriage certificate actually pertained to the marriage license of another couple. The lower courts ruled that the certification was insufficient to establish the absence of the marriage license because the certification did not foreclose the possibility that a marriage license with a number different from that indicated in the marriage contract was issued to the spouses. During the appeal before the Court, the OSG further argued that the wife was barred by the unclean hands doctrine from filing the petition because she admitted that they (the spouses) did not personally apply for the marriage license and only relied on her parents in that regard. The Court reversed the lower courts, ruling that the absence of the marriage license had been sufficiently proven. With respect to the OSG's invocation of the unclean hands doctrine, the Court ruled that the wife's admission that she did not apply for a marriage license does not automatically preclude the courts, by reason of the said doctrine, from ruling on the validity of the marriage.

Nowhere in Cariaga did the Court rule that the unclean hands doctrine applied or did not apply. Indeed, the Court did not even make any finding that the spouses' act of not personally applying for their marriage license and their act of acceding to the possibility that a spurious marriage license would be presented to the solemnizing officer was inequitable, fraudulent, or deceitful as would call for the operation of the unclean hands doctrine. The Court refrained from making such a finding, and simply held that the wife's admission should not automatically preclude the court from ruling on the validity of the marriage due to the unclean hands doctrine. Therefore, contrary to Justice Lazaro-Javier's assertion, Cariaga does not support the position that the unclean hands doctrine should not apply to the present case.

At this point, I wish to surface the case of *Alcantara v. Alcantara*[30] (cited in the ponencia) which involved a petition for declaration of nullity of marriage on the ground of absence of a marriage license. The petitioning husband therein alleged that the spouses engaged the services of a fixer to procure their marriage license. The Court rejected this argument, holding that the absence or spuriousness of the marriage license was not sufficiently proven. The Court found that the supposed absence of the marriage license was not apparent on the face of the marriage contract and was not even supported by a certification from the local civil registrar that no such marriage license was issued to the parties. On the contrary, the evidence showed that the marriage license indicated in the marriage contract was actually issued to the spouses, based on a certification issued by the local civil registrar. All told, the husband failed to overcome the presumption in favor of the validity of the marriage. Additionally, the Court ruled that the unclean hands doctrine precludes the husband from benefitting from his own action and allow him to terminate the marriage bond at his mere say-so.

The cases of Cariaga and Alcantara show that there are varying degrees of inequitable conduct that may or may not call for the application of the unclean hands doctrine. The Court should carefully consider the facts of each case before applying the said doctrine. If, as in Cariaga, it is not clearly shown that the petitioning spouse knowingly performed the act which he or she later cites as basis for the nullity of their marriage, then I would vote against the application of the unclean hands doctrine, since its application has no clear factual basis. But if, as in the case of Alcantara, the petitioning spouse admits engaging a fixer to procure a spurious marriage license, I would vote in favor of applying the unclean hands doctrine.

Nonetheless, the Court is not currently confronted with the issue of whether or not the unclean hands doctrine should likewise apply to marriages where the nullity is due to the absence of a marriage license (as in *Cariaga and Alcantara*), or to all petitions for declaration of nullity of marriage for that matter. Indeed, the Court should await the proper case on when the unclean hands doctrine becomes an issue on a void marriage involving a different ground for its nullity. Otherwise, any pronouncement by the Court in this case on that matter will constitute obiter.

Going back, the Court must not lose sight of the fact that the only issue presented before it now is whether the petitioning spouse, who fully knew that her first marriage was still subsisting when she entered into another marriage, has the personality to file the petition for declaration of nullity of marriage on the ground of bigamy. The only practical effect of denying Maria Lina such personality is that she would not be able to secure a marriage license in the Philippines for purposes of remarriage. Denying her such personality will not validate her void bigamous marriage, because her marriage may still be considered void for purposes other than remarriage such as in cases involving settlement of estate, actions for support, and partition of estate.

Again, I reiterate my view that Maria Lina, being the erring spouse, is not an aggrieved spouse within the contemplation of Section 2(a) of A.M. No. 02-11-10-SC and the Rationale of the Rules on Annulment. Further, she is barred by the unclean hands doctrine from filing the petition because she entered into another marriage despite full knowledge of the subsistence of her first marriage. Allowing a bigamous spouse the personality to nullify his or her bigamous marriage at will for the purpose of remarriage will not promote the sanctity and inviolability of marriage as a social institution.

Not recognizing the erring bigamous spouse's legal personality to nullify his or her marriage is not discriminatory and does not violate the Convention for the Elimination of Discrimination Against Women. It is merely a recognition that he or she is not an "aggrieved" or "injured" spouse who, regardless of sex, has the personality to file the petition for nullity. A woman who knowingly enters into a bigamous marriage is not discriminated upon when she is given the same legal treatment and placed in the same legal footing as a man who knowingly enters into a bigamous marriage. What qualifies a party as "injured" or "aggrieved" is innocence of the party to the bigamous marriage or the subsisting marriage, or the status of a spouse being left and abandoned by the other spouse who contracts the bigamous marriage. In this case, Maria Lina is neither the innocent spouse of the bigamous marriage nor the abandoned spouse of the subsisting marriage who is clothed with capacity and standing to petition the declaration of nullity of her bigamous marriage. Even granting, for the sake of discussion, that men are more likely to commit bigamy (as posited by Justice Lazaro-Javier), then the ponencia's effect would actually be adverse to men, since men, as supposedly more likely to commit bigamy, would have no personality to nullify their bigamous marriages.

While Maria Lina finds herself in this predicament of being bound under a bigamous marriage that cannot and should not be declared void on the ground of bigamy, the Court should not "rescue" her from her illegal act of contracting a bigamous marriage. To be clear, by denying the Petition, this Court is not ruling on the validity or nullity of Maria Lina's and Edwin's marriage. Rather, it is simply refusing to acknowledge Maria Lina as having the legal personality to nullify her marriage on the ground of bigamy.

Accordingly, I vote to DENY the Petition.

[1] Re: Proposed Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, March 4, 2003.

[2] 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[3] 8 Court Systems J. No. 2, 72 (June 2003).

[4] Juliano-Llave v. Republic of the Philippines, *supra*, at 223.

[5] *Id.* at 223-224.

[6] 712 Phil. 524 (2013) [Per J. Carpio, Second Division].

[7] *Id.* at 550-552.

[8] Ponencia, pp. 8-9.

[9] *Id.* at 7 and 11.

[10] *Id.* at 2.

[11] ARTICLE 35. The following marriages shall be void from the beginning:

(1)

Those contracted by any party below eighteen years of age even with the consent of parents or guardians;

(2)

Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;

(3)

Those solemnized without a license, except those covered by the preceding Chapter;

(4)

Those bigamous or polygamous marriages not falling under Article 41;

(5)

Those contracted through mistake of one contracting party as to the identity of the other; and

(6)

Those subsequent marriages that are void under Article 53.

[12] ARTICLE 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

[13] Executive Order No. 209, titled "THE FAMILY CODE OF THE PHILIPPINES", approved on July 6, 1987.

[14] 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.

[15] J. Carpio, Concurring Opinion in *Abunado v. People*, 470 Phil. 420, 433 (2004) [Per J. Ynares-Santiago, First Division]. (Emphasis supplied)

[16] *Kalaw v. Fernandez*, 750 Phil. 482, 501 (2015) [Per J. Bersamin, Special First Division].

[17] See *Alcantara v. Alcantara*, 558 Phil. 192, 206 (2007) [Per J. Chico-Nazario, Third Division].

[18] *Niñal v. Bayadog*, 384 Phil. 661, 675 (2000) [Per J. Ynares-Santiago, First Division].

[19] *De Castro v. Assidao-De Castro*, 568 Phil. 724 (2008) [Per J. Tinga, Second Division].

[20] *Anaban v. Anaban-Alfiler*, 898 Phil. 421 (2021) [Per J. Lazaro-Javier, Second Division].

[21] *Reyes v. Lim*, 456 Phil. 1, 10 (2003) [Per J. Carpio, First Division].

[22] *Muller v. Muller*, 531 Phil. 460, 468 (2006) [Per J. Ynares-Santiago, First Division].

[23] 192 Md. 168, 63 A.2d 713 (Md. 1949). Rendered by the Court of Appeals of Maryland.

[24] *Id.* at 176.

[25] ARTICLE 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

[26] 118 S. E. 316 (1923).

[27] 85 N.J. 507 (1981).

[28] 918-A Phil. 770 (2021) [Per J. Caguioa, First Division].

[29] *Id.* at 804-805.

[30] *Supra* note 17.

DISSENT

LAZARO-JAVIER, J.:

In ruling that Maria Lina P. Quirit-Figardo (Maria Lina) lacks the legal capacity to file the present petition to declare the nullity of her bigamous marriage with Edwin L. Figardo (Edwin), the Majority cited as bases the rulings in *Fujiki v. Marinay*[1] and *Juliano-Llave v. Republic*;^[2] and the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders (Rationale). The Majority concluded that per these authorities, only the aggrieved or injured spouse may bring an action for declaration of nullity of a void marriage under 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).

I dissent.

First off, Section 2(a) of A.M. No. 02-11-10-SC refers to the proper party who may file a petition for declaration of absolute nullity of a void marriage:

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. (Emphasis supplied)

The categorical language of Section 2(a) of A.M. No. 02-11-10-SC leaves no room for doubt—either the husband or the wife in the void marriage may file a petition to declare their marriage void. Undoubtedly, therefore, Maria Lina is a proper party to file the present petition for declaration of nullity of her marriage to Edwin.

In fact, when psychological incapacity is invoked as a ground to declare a marriage void, the spouse claiming to be psychologically incapacitated, or the guilty spouse, has been recognized to possess the legal capacity to file the petition. Specifically, in *Puyat v. Puyat*,^[3] Gil Miguel Puyat (Gil Miguel) filed a petition to declare his marriage to Ma. Teresa Jacqueline Puyat (Ma. Teresa) as void on the ground of his own psychological incapacity. The Court held that clear and convincing evidence of Gil Miguel's psychological incapacity was established through his own testimony during trial and the respective medical findings of the psychologist and the psychiatrist who both independently assessed him to be suffering from Narcissistic Personality Disorder. The Court unequivocally ruled in *Puyat* that Gil Miguel had the legal capacity to file an action to declare his marriage to Ma. Teresa void even though he is the psychologically incapacitated spouse, thus:

Nonetheless, incapacity of one spouse is sufficient to declare the nullity of their marriage. Furthermore, despite being declared as the psychologically incapacitated spouse, Gil Miguel is not barred from initiating an action to declare his marriage to Ma. Teresa null and void. Section 2 (a) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages states:

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.

The rule does not distinguish who between the spouses may file the petition for declaration of absolute nullity of void marriage. Either party, even the psychologically incapacitated, can file the petition. In view of the foregoing, the Court declared the marriage between the petitioner and the respondent on November 4, 1976 null and void ab initio.^[4] (Emphasis supplied)

Indeed, A.M. No. 02-11-10-SC does not distinguish who between the spouses may file the petition for declaration of absolute nullity of a void marriage. To reiterate, Section 2(a) of A.M. No. 02-11-10-SC does not speak of any "guilty" or "innocent" spouse. Consequently, the application of Section 2(a) of A.M. No. 02-11-10-SC does not depend on the specific ground of the petition for declaration of nullity of marriage since, as worded, Section 2(a) of A.M. No. 02-11-10-SC applies to all petitions for declaration of absolute nullity of void marriages.

Thus, I see no reason why we should prevent Maria Lina from pursuing the present action to declare the nullity of her marriage to Edwin on the ground that she is supposed to be the guilty spouse. In any event, her pursuit of such civil action is without prejudice to a criminal prosecution for bigamy, that may later on be filed against her, if warranted. Even then, I maintain that Maria Lina bore the badge of good faith when she contracted her marriage with Edwin, as will be shown in the succeeding parts of this Dissent.

At any rate, the ponencia of the revered Associate Justice Alfredo Benjamin S. Caguioa in *Cariaga v. Republic*^[5] aptly emphasized that:

A note on the doctrine of unclean hands

As a final note, the Court recognizes that Lovelle's testimony to the effect that she and Henry did not apply for a marriage license, and that they acquiesced to their parents' advice to "assist with the documentary requirements of their intended civil wedding," appears to show that she willingly acceded to the possibility that a spurious marriage license had been presented to the solemnizing officer during the ceremony.

That said, the Court also recognizes that in petitions to declare the absolute nullity of marriage based on the absence of a valid marriage license, testimony of this nature should not ipso facto preclude a finding of nullity on the ground that parties who come to court must do so with clean hands. To be sure, a marriage contracted despite the absence of a marriage license necessarily implies some sort of irregularity. Nevertheless, such irregularity, as well as any liability resulting therefrom, must be threshed out and determined in a proper case filed for the purpose. It is in that separate proceeding where the party or parties responsible for the irregularity would be ascertained. A contrary ruling would operate to validate marriages which the law itself declares void.[6] (Emphasis supplied)

In other words, public policy is a paramount consideration which compels a declaration of nullity of a void marriage even though the one who comes to court does so with unclean hands. For whatever liability may attach to such party must be threshed out in a separate proceeding for that specific purpose. To rule otherwise "would operate to validate marriages which the law itself declares void." [7] Notably, Cariaga carried the unanimous vote of the then First Division composed of Chief Justice Alexander G. Gesmundo as Chairperson, Associate Justice Caguioa as ponente, Associate Justice Mario V. Lopez, Associate Justice Jhosep Y. Lopez, and yours truly. Needless to state, Cariaga is part of the law of the land and must be honored as the leading and prevailing doctrine in similar cases, as here.

The rejection of the doctrine of unclean hands in Cariaga is very much a part of its ratio insofar as the declaration of nullity of marriage contracted without a marriage license is concerned. The word rejection may not be the exact word used in Cariaga but the essence of Cariaga cannot be any clearer. The wording "in petitions to declare the absolute nullity of marriage based on the absence of a valid marriage license, testimony of this nature should not ipso facto preclude a finding of nullity on the ground that parties who come to court must do so with clean hands" [8] speaks volumes of Cariaga's rejection of the unclean hands doctrine in nullity of marriage cases. The discussion thereon even fell under the sub heading "A note on the doctrine of unclean hands" borne in the decision itself.

Cariaga may speak of declaration of nullity of a void marriage not for being bigamous but due to lack of a marriage license, an irregularity which the petitioner in Cariaga appeared to have acquiesced in. But bigamous marriages and marriages contracted without marriage license not otherwise exempted by law are both void ab initio under Article 35, specifically, paragraphs (3) and (4), of the Family Code.[9] The action available to any of the parties in these kinds of marriages is one and the same: an action for declaration of nullity of marriage under A.M. No. 02-11-10-SC. Why then should the application or non-application of the doctrine of unclean hands as decreed in Cariaga be different in the case of bigamous marriages? Why was the action for declaration of nullity of marriage in Cariaga not foreclosed, albeit there was an initial finding by the Court no less that the party initiating it appeared to have herself acquiesced in the defect, hence, was also a guilty party? Does not foreclosing an action for declaration of nullity of a bigamous marriage brought by the so-called guilty party operate to validate a marriage otherwise declared void by law, the very mischief sought to be avoided in Cariaga?

I submit that on this score, there is no substantial distinction between a petition for declaration of nullity of marriage for lack of marriage license, on one hand, and a similar petition involving a bigamous marriage, on the other. Cariaga is the leading case not only here but in other similar cases where the marriage is void ab initio. The doctrine of unclean hands should therefore not foreclose the grant of a petition for declaration of nullity of marriage in the present case, albeit Maria Lina, the perceived guilty party was the one who initiated it. The

apprehension that allowing her the relief she is praying for here might arm her with a defense in the criminal case is not a valid ground to treat her differently here and now. For sure, we cannot second guess what she will do and how the proper court will act should the criminal case be pursued against her. Also, whether *Pulido v. People*[10] may be invoked by Maria Lina in case she is indicted for bigamy and how the proper court will dispose of it are matters belonging to the unknown. We cannot speculate and on its basis deny equal protection to Maria Lina.

Now, we are confronted with the issue whether the ruling on the doctrine of unclean hands in *Cariaga* was part of the ratio or a mere obiter. I am of the view that it was part of the ratio and not a mere obiter. Surely, it was not a stray portion but was directly responsive to the main argument of the Office of the Solicitor General "that Lovelle's testimony to the effect that she and Henry never applied for a marriage license readily shows that Lovelle came to court with unclean hands. Hence, she should not be allowed to benefit from such failure by obtaining a declaration of nullity of their marriage." [11] And just because it was found in the last part of the decision did not make it a mere afterthought or surplusage for that matter.

Relatedly, we reckon with *Alcantara v. Alcantara*, [12] a case cited by the ponencia. There, the Court upheld the validity of the marriage and applied the doctrine of unclean hands to bar petitioner from seeking the declaration of nullity of his marriage to respondent since he initiated the marriage to take place even though he claimed they had no marriage license. But *Alcantara* does not apply to the present case. For one, the marriage therein was upheld since the alleged absence of marriage license was belied by the existence of the marriage contract itself and the certification issued by the local civil registrar of Carmona, Cavite. The petitioner there was not shown to have acted truthfully in declaring the so called defect in his marriage. There was a nagging question whether he was telling the truth or was simply fabricating a story to be able to get out of his subsisting marriage with his wife so he could marry another woman. Also, he flatly admitted that he merely dealt with a "fixer" who supposedly arranged everything for them; and that they purportedly got married knowing full well they had no marriage license. Clearly, he acted with sheer malice and bad faith. Most important, the Court gave due credence and respect to the integrity of the marriage contract and the certification of the local civil registrar as against therein petitioner's unsubstantiated testimony to the contrary.

Here, the nullity of the bigamous marriage between Maria Lina and Edwin is undisputed. She still had a subsisting marriage with her absentee husband when she got married to Edwin. She had no intention of violating the law on marriage considering that she first sought the advice of a lawyer prior to marrying Edwin. The lawyer told her though that "she can re-marry considering the absence of her first husband for seven years already." [13] Precisely because Maria Lina is a layperson who is not learned in the intricacies of the law, she naturally believed and heeded the lawyer's advice. Thus, she should not be faulted for truly believing that there was no legal impediment if she married Edwin. Her action bore the badge of good faith unlike *Alcantara* whose story was not only self-serving but even went against the public records evidencing his lawful marriage to his wife.

During the deliberations, I also brought to fore the cases of *Townsend v. Morgan*, [14] *Heflinger v. Heflinger*, [15] and *Faustin v. Lewis* [16] which ruled that the doctrine of unclean hands does not apply in suits to nullify a bigamous marriage since the annulment of such marriage is a more effectual way of preventing injurious consequences upon innocent persons, and violations upon the public policy of the State to protect the sanctity of marriage and the welfare of the public. The marriage status being on a different footing from contracts, a party may therefore be relieved from a void marriage, although fully aware of its invalidity when contracted. [17] The doctrine of unclean hands is subservient to the paramount State interest to preserve the solemnity of the institution of marriage. [18]

In *Townsend v. Morgan*, [19] Arthur Townsend was married to Cleo Reed but they eventually separated. Having no contact and news from Cleo, and believing that he was free to marry, Arthur married Elsie in the City of

Baltimore. Later on, after being cautioned that Cleo might still be alive and that his marriage with Elsie might be invalid, Arthur sought to nullify his marriage with Elsie for being bigamous. The Court of Appeals of Maryland held:

It is generally accepted that the equitable maxim that he who comes into equity must come with clean hands cannot be applied in any case where the result of the application sustains a relation which is denounced by statute or is contrary to public policy. In proceedings to annul a bigamous marriage, the interest of the State is paramount to the grievances of the parties directly interested. The State sponsors the sanctity of the marriage relation and the welfare of society. In some cases the interests of unborn children may be affected. There is a difference between the ordinary case where the court refuses to aid the complainant in securing benefits from his own wrongdoing and the case where the complainant desires to have a judicial declaration that a marriage is null and void. When a party files a suit for annulment of his marriage, he is deemed as coming into court repenting of his wrongdoing and asking the court to correct his wrongful act as far as possible, in order to prevent any injurious consequences which might be cast thereby in the future upon innocent persons and upon the State. For these reasons the unclean hands doctrine is not applicable in a suit to annul a bigamous marriage. The marriage status being on a different footing from contracts generally, a party may be relieved from a void marriage, although fully aware of its invalidity when contracted.[20] (Emphasis supplied)

Meanwhile in *Heflinger v. Heflinger*,[21] Charles Heflinger obtained a divorce decree from his previous wife on the ground of desertion. The divorce decree did not bear a ruling as to the right of either party to marry again. Notably, under the law of Virginia, the marital bond in the first marriage shall not be deemed dissolved until the expiration of six months following the divorce decree. Charles, who had actual and constructive knowledge of such statutory prohibition left Virginia and married Clelia Ramsey in the City of Baltimore prior to the expiration of the six-month period. When the marriage of Charles and Clelia turned sour, Charles sought to dissolve their marriage on the ground that it was null and void under the law of Virginia. In affirming the trial court's decree of annulment of the subsequent marriage between Charles and Clelia, the Court of Appeals of Virginia held:

It has been urged upon us that the appellee could not maintain the suit to annul the marriage in consequence of the equitable doctrine of "clean hands," and the maxim in *pari delicto*. If the jurisdiction to annul the marriage is a purely statutory remedy, plainly given by the statute without condition, there is no appeal to the conscience of the court, and it cannot impose conditions. Hence the maxim of "clean hands" does not apply... Conceding, however, this jurisdiction, the equitable doctrine of "clean hands" is subservient to the public policy of the state, and cannot be invoked in contravention thereof. If section 5113 of the Code is a declaration of public policy on the part of the state, and renders void a second marriage within six months from the date of the decree of divorce, the public interest is such that the remedy afforded by section 5100 of the Code cannot be denied by the application of the doctrine of "clean hands." The doctrine of "clean hands" is closely akin to the maxim in *pari delicto*, and the two are sometimes discussed as though involving substantially the same principle. The authorities on the application of the doctrine are not in harmony.

[W]e are satisfied that the annulment of such marriages is a more effectual way of preventing such violations of the statutes and public policy of the state than an affirmance of them would.

....

In *Szlauzis v. Szlauzis*, 255 Ill. 314, 319, 99 N.E. 640, 642 (L. R. A. 1916C, 741, Ann. Cas. 1913D, 454), it is said that —

"The rule of *par delictum* will not be applied, however, to prevent relief in a suit to annul and set aside a void marriage. That is a matter in which the state is an interested party. Under the facts as found by the court the marriage should be set aside as void, but the parties are entitled to no other or further relief." [22] (Emphasis supplied)

Finally, *Faustin v. Lewis*[23] involved Jossline Faustin and Maurice Lewis who got married solely for the purpose

of making the former eligible for lawful permanent residence in the United States. Jossline filed an action to nullify her marriage to Maurice, alleging that their marriage was a sham. The trial court and the appellate court denied Jossline's petition and ruled that she was guilty of coming to court "with unclean hands" and thus not entitled to judicial relief. The Supreme Court of New Jersey, however, reversed.[24] Thus:

The doctrine of unclean hands as applied to nullity actions in this State is judge-made and has no statutory basis. In simple parlance, it merely gives expression to the equitable principle that a court should not grant relief to one who is a wrongdoer with respect to the subject matter in suit. It is noteworthy that our courts have not always recognized the applicability of the doctrine in nullity matters. At one time, the courts of this State took the position that in suits for nullity of marriage contracts which were void under New Jersey statutes, where no property rights were involved, the doctrine of unclean hands, even though otherwise applicable, was subordinate to considerations of public policy which favored judicial declaration of marital status for the protection of public interests. E.g., *Davis v. Green*, 91 N.J. Eq. 17, 19-20 (Ch. 1919); *Freda v. Bergman*, 77 N.J. Eq. 46, 48-50 (Ch. 1910).

These decisions, however, were overruled in *Tyll v. Keller*, 94 N.J. Eq. 426 (E. & A. 1923), and it became the established law of this State that unclean hands was a per se bar to a litigant's obtaining a judgment of nullity. *Smith v. Hrzich*, 1 N.J. 1 (1948).

....

We conclude therefore, that Tyll, as a hard and fast rule, is unduly harsh and should be modified so as to return discretion to the trial court. Henceforth, it will be permissible to weigh the equities, as well as the public policy in having a person's marital status declared, to the end that uncertainty may be removed from future transactions, rights of inheritance, etc. See *Freda v. Bergman*, supra, 77 N.J. Eq. at 48-50.[25]

Indeed, these foreign cases underscored not only the imperative of defending and promoting the sanctity of marriage as an inviolable social institution, but also preserving the integrity and veracity of the entries contained in the civil registry governing the status of persons from birth to death.[26] When we speak of sanctity of marriage, it refers only to valid marriages, not to marriages that are void ab initio, which in the eyes of the law do not exist. Thus, it is important that only marriages which are valid under the law are kept and filed in the civil registry; and those which are not, be stricken out and declared a nullity, lest they be deemed validated even though they are not valid under the law. More than anything though, this is a matter of public policy which we must uphold.

Clearly, under the aforementioned precedents in the United States, the presumption of good faith, laudable desire to right a wrong, and compassionate justice were applied, rather than the punitive if not the oppressive opposites. Indeed, if we could interpret evidence either in good light or in bad light, we must always opt for the good light.

True, these U.S. cases are not binding in this jurisdiction; they are decisions of state appellate courts and not of the U.S. Supreme Court itself; and our family and bigamy laws are not patterned after U.S. states.

I respectfully maintain, however, that these foreign cases should be accorded persuasive weight, specifically the universal rationale for ensuring at all times that the entries in the civil registry remain truthful, reliable, incorruptible, and cleansed of any irregularity, independent of the ensuing liability of the person who caused the same. For the life of us, we cannot deny that the universal value ingrained in these foreign cases was the same value we applied in *Cariaga*.

In any case, what is the value of foreign jurisprudence in our own legal system? Why did the Court in *People v. Doria*[27] cite several rulings of American federal courts and state courts to discuss exhaustively the concept of entrapment in drug cases? Meanwhile, in *People v. Velasco*,[28] why did the Court again cite foreign

jurisprudence to tackle the doctrine of double jeopardy? Why did every single member of the present Court and even their predecessors from long ago or in recent years, one time or another, cite foreign jurisprudence to support his or her ponencia? The answer is simple. The Court has, time and again, resorted to rulings of American tribunals when confronted by general concepts of law, whether sourced from American principles or otherwise. Foreign jurisprudence thus have persuasive effect on the Court. They may after all be invoked when they do not violate or contravene any of our existing laws,[29] and to support our own jurisprudence.[30]

On this score, my humble take again is, admit it or not, our own Cariaga substantially conformed with and mirrored the rulings in Townsend, Heflinger, and Faustin.

Another case cited by the ponencia is *Fujiki v. Marinay*.^[31]

With due respect, however, the citation of *Fujiki* in the ponencia is misplaced. *Fujiki* involved a Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage) while the present case involves a Petition for Declaration of Nullity of Marriage. Too, the issue in *Fujiki* was whether *Fujiki*, the first husband, had the legal capacity to file a petition to recognize the judgment of the Family Court in Japan nullifying the bigamous marriage between his wife *Marinay* and her second husband *Maekara*.

In contrast, the issue here is whether *Maria Lina*, the wife who contracted the second marriage, has the legal capacity to file a petition for declaration of nullity of her bigamous marriage to her second husband *Edwin*. More, although there was a categorical declaration in *Fujiki* that A.M. No. 02-11-10-SC is inapplicable to the case as it involved a petition for recognition of foreign judgment, the Court quite inexplicably went on to still discuss what it just said was inapplicable to the case, i.e., Section 2(a) of A.M. No. 02-11-10-SC, viz.:

Section 2(a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife"—it refers to the husband or the wife of the subsisting marriage. Under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2(a) of A.M. No. 02-11-10-SC.^[32] (Citations omitted)

I respectfully submit that this opinion is hands down obiter. It is also flawed. *Fujiki* opined that Section 2(a) of A.M. 02-11-10-SC refers only to the right of the husband or wife in the first subsisting marriage to bring an action for nullity of the second marriage. On this score, any or both of the contracting parties in the second marriage are precluded from doing so since they supposedly are not considered husband and wife in the eyes of the law. But by saying so, the obiter, like a bill of attainder, was already pronouncing, sans any hearing, that the second marriage is indeed bigamous. Too, the obiter totally precluded the innocent party in the second marriage from initiating the action for nullity of marriage claimed to be bigamous. In any event, if we were to follow the line of the obiter, then in all marriages contracted with one who is psychologically incapacitated or between two psychologically incapacitated parties, no one between them is deemed qualified to initiate the action for nullity of marriage since, legally speaking, these parties are not husband and wife either. In reality, however, the Court has time and again recognized the personality of the errant party to file a petition for nullity of marriage.^[33]

For the application of Section 2(a) of A.M. No. 02-11-10-SC does not depend on whether the petition for declaration of nullity of marriage is under Article 35(3) (lack of valid marriage license), or Article 35(4) (bigamy), or Article 36 (psychological incapacity) of the Family Code. As worded, Section 2(a) of A.M. No. 02-11-10-SC is clear: it applies to all petitions for declaration of absolute nullity of void marriages.

Even then, the Majority still applied Fujiki to support its conclusion that "the State does not have an absolute responsibility to dissolve bigamous marriages irrespective of the circumstances of the case and the acts and omissions of the parties involved."

Again, I differ.

In the first place and as mentioned earlier, Maria Lina is not a guilty party as the Majority perceived her to be. Records show that she sought the advice of a lawyer from Quezon City before marrying Edwin. The lawyer advised her that "she can re-marry considering the absence of her first husband for seven years already." [34] She also relied on a friend's advice that "per Hong Kong law, two years of absence by the spouse is a ground for divorce." [35] This explanation was not refuted by the State, nor passed upon either by the trial court, the appellate court, or even the ponencia. No one denied that indeed there are lawyers who give erroneous advice to their clients, based on their equally erroneous understanding of the law. In fact, there are several cases [36] where the Court has excused parties from serious consequences of their lawyers' gross negligence or misapplication of the law on grounds of equity and fairness. Particularly, in *Almelo v. The Regional Trial Court of Las Piñas City Branch 254*, [37] the Court spared petitioner from his counsel's negligence which prejudiced his right to appeal. The counsel therein availed of the wrong remedy before the Court of Appeals to assail the trial court's order granting the annulment of petitioner's marriage to private respondent. Thus:

Clearly, this Court has the power to except a particular case from the operation of the rule whenever the demands of justice require it. With more conviction should it wield such power in a case involving the sacrosanct institution of marriage. This Court is guided with the thrust of giving a party the fullest opportunity to establish the merits of one's action.

After all, laypersons who rely on the legal advice or services of those who are supposed to be knowledgeable about the law should never be punished for relying on them in good faith, as in the case of Maria Lina.

Finally, the Majority referred to the Rationale cited in *Juliano-Llave v. Republic*, [38] viz.:

(1) Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

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. [39] (Emphasis supplied)

To clarify though, the Rationale is not part of the actual text of A.M. No. 02-11-10-SC. It contains a mere introduction of A.M. No. 02-11-10-SC and an outline of its salient features, viz.:

Rationale of the Rules on Annulment of Voidable Marriages and
Declaration of Absolute Nullity of Void Marriages, Legal Separation
and Provisional Orders
Prefatory Statement

The foundation of the family is marriage. The prevailing view is that the "family provided the frame work for all prestate society and the fount of its creativeness." It has been adjudged the most significant invention of the human revolution together with language and tool use.

Marital relation is the basis of society and its preservation is deemed vital to public welfare. Hence, marriage as an enduring societal value has been recognized by civilized countries. The Universal Declaration of Human Rights provides that men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. It declares that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The International Covenant on Economic, Social and Cultural Rights as well as the International Covenant on Civil and Political Rights likewise safeguard the sanctity of marriage and the integrity of the family.

The universal concern for marriage and the family is deeply etched in our 1987 Constitution and Family Code. Article II, section 12 of the 1931 Constitution proclaims in no uncertain terms that the "State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution." More than that, it devotes an entire article to the family. Its Article 15 categorically recognizes the Filipino family as the foundation of the nation and obligates the State to protect it.

Marriage, while a contract requiring the consent of parties, is more than a civil contract. It creates a status and results in a social relation with rights, duties and liabilities. As its preservation is important not only to the contracting parties but to the State as well, its nature and consequence are subject to regulation by Congress. Thus, laws regulate, among others, the requisites of marriage, void and voidable marriages as well as the property relations of the spouses.

Over time, proceedings involving legal separation, annulment of voidable marriages, and declaration of absolute nullity of void marriages have proven to be lengthy and costly. Stringent evidentiary requirements have unfortunately caused undue burden to couples whose marital relations have irretrievably broken down. They have become impediments to the dissolution of marriages that can no longer be saved.

In line with the judiciary's vision under the Davide Watch of providing accessible, inexpensive, efficient and effective administration of justice, these Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders have been drafted. They reflect full adherence to the fundamental principles that the Family Courts should be more accessible to our citizens and that rules of procedure should facilitate the complete and equitable resolution of the rights and obligations of the parties with the least possible expense.

Salient Features of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages

1.

Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouse or by the State. [Section 2; Section 3, paragraph a]

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.[40] (Emphasis in the original; citations omitted)

At any rate, the reference to the aggrieved or injured spouse in the Rationale was only made vis-à-vis the prohibition imposed against his or her heirs from initiating a nullity of marriage case against the surviving spouse. Hence, with due respect, the purpose for which the Rationale was being cited in the ponencia was not consistent

with the purpose contemplated by the Rationale itself. Besides, the Rationale is a mere opinion by those who proposed A.M. No. 02-11-10-SC. Therefore, the Rationale cannot amend the clear and unequivocal language of Section 2(a) of A.M. No. 02-11-10-SC, where the words "husband" and "wife" are not qualified by the operative words "aggrieved" and "injured."

Notably, Maria Lina prays for two remedies: first, to declare as void her marriage to Edwin for being bigamous; and second, to declare her capacitated to remarry.

Even assuming that Maria Lina may have been the guilty spouse when she married Edwin during the subsistence of her prior marriage to Ho Kor Wai, is she precluded from rectifying her mistake? Is righting a wrong, wrong? Does not Maria Lina simply desire to set right her marital status in accordance with law?

We should stress anew that her action to right a wrong which she herself was said to have caused is without prejudice to her criminal liability under the law, if warranted. Her situation is akin to a parent who caused the registration of a child's simulated birth which that parent herself or himself later on desires to correct. Although the parent is the guilty party, relief is still given her or him by law to correct the wrong that he or she had caused. But this, again, is without prejudice to his or her ensuing criminal liability, if any there be.

Under Article 40 of the Family Code, a judicial declaration of nullity of a prior marriage is required for purposes of remarriage, thus:

Article 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

Jurisprudence dictates that even if the marriage is void, a final judgment declaring it void for purposes of remarriage is required. Indeed, "parties to the marriage should not be permitted to judge for themselves its nullity, for this must be submitted to the judgment of competent courts and only when the nullity of a marriage is so declared can it be held as void[.]"[41]

Maria Lina's petition to declare the nullity of her marriage to Edwin proceeds from the command of Article 40 of the Family Code. For the Court to disallow her to pursue this remedy for the sole reason that she is "guilty" of contracting a bigamous marriage to Edwin is unjust, if not in clear contravention of what the law commands.

A final point

By disqualifying a woman from being a proper party in an action for declaration of nullity of marriage on the ground of bigamy, we are adding one more disqualifying rule against her in the list of disqualifying rules we have against women in the Family Code.

This is the problem when we begin to rationalize the rules we craft on the basis of our value judgments that persons who have been through multiple relationships, including bigamous alliances, are depraved, immoral, and deserving of their fate. There again—the use of the word "fate." This word masks the whole process of imposing the rule, because "fate" connotes the inevitable and natural, thus stopping us from unmasking the political and historical biases that underlie our reasons for creating the rule.

Maria Lina should not be denied the protection of the law because of what is perceived to be her immoral conduct. Recourse to the justice system is available to anyone who may need help or protection. To be abundantly clear, even unfaithful wives who cheat on their husbands are entitled to the full measure of protection of the law, as morally objectionable as their infidelity may have been. As such, even if Maria Lina was promiscuous and disrespectful of her first husband—though there is no evidence to that effect—she is entitled to the same protection as all women have the right to receive. This should not entitle the State or the Court to strangle her into a marriage

that in law is clearly void.

All told, I vote to GRANT the Petition and to declare the nullity of the bigamous marriage between Maria Lina P. Quirit-Figarido and Edwin L. Figarido.

[1] 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].

[2] 662 Phil. 203, 223 (2011) [Per J. Del Castillo, First Division].

[3] 906 Phil. 143 (2021) [Per J. Carandang, First Division].

[4] Id. at 160.

[5] 918-A Phil. 770 (2021) [Per J. Caguioa, First Division].

[6] Id. at 804-805.

[7] Id. at 805.

[8] Id. at 804.

[9] Art. 35. The following marriages shall be void from the beginning:

....

(3) Those solemnized without license, except those covered the preceding Chapter;

(4) Those bigamous or polygamous marriages not failing under Article 41[.]

[10] 908 Phil. 573 (2021) [Per J. Hernando, En Banc].

[11] 918-A Phil. 770, 776 [Per J. Caguioa, First Division].

[12] 558 Phil. 192, 206 (2007) [Per J. Chico-Nazario, Third Division].

[13] Petition, p. 3.

[14] 192 Md. 168, 175 (Md. 1949).

[15] 136 Va. 289, 118 S.E. 816 (1923).

[16] 85 N.J. 507 (1981).

[17] *Townsend v. Morgan*, 192 Md. 168, 175 (Md. 1949).

[18] *Heflinger v. Heflinger*, 136 Va. 289, 118 S. E. 816 (1923).

[19] 192 Md. 168, 175 (Md. 1949).

[20] Id.

[21] 136 Va. 289, 118 S. E. 816 (1923).

[22] Id.

[23] 85 N.J. 507 (1981).

[24] Id.

[25] Id.

[26] Atty. Tin vs. Republic of the Philippines, 94 Phil. 321, 324 (1954) [Per J. Bautista Angelo, En Banc].

[27] 361 Phil. 595 (1999) [Per J. Puno, En Banc].

[28] 394 Phil. 517, 527-528 (2000) [Per J. Bellosillo, En Banc].

[29] See Philippine National Bank v. Court of Appeals, 392 Phil. 156 (2000) [Per J. Gonzaga Reyes, Third Division].

[30] See Sanders v. Veridiano II, 245 Phil. 63 (1988) [Per J. Cruz, First Division].

[31] 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].

[32] Id.

[33] See Puyat v. Puyat, 906 Phil. 143, 160 (2021) [Per J. Carandang, First Division]; Clavecilla v. Clavecilla, G.R. No. 228127, March 06, 2023 [Per C.J. Gesmundo, First Division].

[34] Petition, p. 3.

[35] Id.

[36] See Apex Mining, Inc. v. Court of Appeals, 377 Phil. 482, 493-494 (1999) [Per C.J. Davide, Jr., First Division]; GSIS v. Bengson Commercial Buildings, Inc., G.R. No. 137448, January 31, 2002 [Per C.J. Davide, Jr., En Banc]; CMTC International Marketing Corp. v. Bhagis International Trading Corp., 700 Phil. 575, 583 (2012) [Per J. Peralta, Third Division].

[37] 585 Phil. 439, 452 (2008) [Per J. R.T. Reyes, Third Division].

[38] 662 Phil. 203, 223 (2011) [Per J. Del Castillo, First Division].

[39] Id.

[40] Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders, The Court Systems Journal (Vol. 8:83, 2003), pp. 72-73.

[41] Landicho v. Relova, 130 Phil. 745, 748 (1968) [Per J. Fernando, En Banc].

DISSENTING OPINION**ZALAMEDA, J.:**

I dissent. With due respect, the banc should have judicially declared the nullity of the bigamous marriage between Maria Lina P. Quirit-Figarido (Maria Lina) and Edwin L. Figarido (Edwin). The State has no interest in preserving a bigamous marriage, and the Court should not refuse to declare this marriage void by primarily relying on technicalities.

The majority denies the Petition for Review on Certiorari filed by Maria Lina, and affirms the Decision^[1] and the Resolution of the Court of Appeals.^[2] Ultimately, it upheld the Decision of Regional Trial Court (RTC)^[3]

denying Maria Lina's petition for declaration of nullity of her marriage with respondent Edwin.[4]

Maria Lina married Ho Kar Wai, a Chinese National on December 13, 1989 in Tsim Sha Tsui in Hong Kong, and also on August 23, 1994 before the Metropolitan Trial Court of Parañaque City. In June 2000, Maria Lina met Edwin while she was working as a bank teller at Equitable Bank in Central Hong Kong. Edwin, who was a regular client of the bank, was an expatriate working as Engineer Manager in The Cable Assembly in Dongguan, China. Sometime in 2002, Edwin started courting Maria Lina. On February 22, 2003, Maria Lina and Edwin married before Reverend Christopher Navarro Lumibao at the House of the Groem in Narcissus Street, Roxas District, Quezon City. They had two children, xxxxxxxxxxxx, and xxxxxxxxxxxx.[5]

On November 28, 2007, Ho Kar Wai obtained a Certificate of Making Decree Nisi Absolute (Divorce Decree) from the District Court of Hong Kong Special Administrative Region, dissolving his marriage with Maria Lina. Maria Lina then filed a Petition for Recognition/Enforcement of Foreign Judgment before the RTC of Parañaque City, Branch 260 and was subsequently granted on February 5, 2009.[6]

Sometime in 2014, Maria Lina and Edwin separated. Their children remained in the custody of Maria Lina in the Philippines while Edwin, who was working overseas, provided them with support. On March 6, 2017, Maria Lina filed before the RTC of Parañaque City a petition for declaration of nullity of marriage on the basis that the same was "bigamous," pursuant to Article 35(4) of the Family Code.[7]

We have here Maria Lina who admitted that she entered into a second marriage while her prior marriage was still subsisting. She seeks to correct her error and set the record straight. That she contracted that second marriage should not prevent the Court from granting the petition for declaration of nullity. Doing so does not mean We are encouraging parties to enter into bigamous marriages, rather We are only confirming the fact that this marriages are void from the beginning pursuant to the Family Code.[8] Denying this petition and leaving the parties as they are results in an absurd situation where the Court tolerates a bigamous marriage just because of some technicality which is in a rule of procedure and not supported by substantive law.

As the Court said in *Kalaw v. Fernandez* (Kalaw):[9]

We have to stress that the fulfilment of the constitutional mandate for the State to protect marriage as an inviolable social institution only relates to a valid marriage. No protection can be accorded to a marriage that is null and void ab initio, because such a marriage has no legal existence.

In declaring a marriage null and void ab initio, therefore, the Courts really assiduously defend and promote the sanctity of marriage as an inviolable social institution. The foundation of our society is thereby made all the more strong and solid.[10]

Thus, I dissent for the following reasons.

There is no provision in the Family Code that says only the innocent spouse can file a petition for declaration of nullity of marriage. A.M. No. 02-11-10-SC is merely a procedural rule and cannot trump substantive law.

The Family Code lists the marriages that are considered void ab initio, namely Articles 35, 36, 37, 38, 41, 44, and 53. These marriages are void from the beginning due to the absence of any of the essential or formal requisites, for being incestuous, or by reason of public policy.[11] Specifically, Article 41 of the Family Code explicitly provides that "[a] marriage contracted by any person during subsistence of a previous marriage shall be null and void[.]"

Void marriages, like void contracts, are inexistent from the very beginning. To all legal intents and purposes, a void ab initio marriage does not exist and the parties, under the eyes of the law, were never married.[12] A void marriage produces no legal effects except those declared by law concerning the properties of the alleged spouses, special co-ownership or limited ownership through actual joint contribution, and its effect on the children born to void marriages as provided in Article 50 in relation to Articles 43 and 44 as well as Articles 51, 53, and 54 of the Family Code.[13]

Being inexistent under the law, the nullity of a void marriage can be maintained in any proceeding in which the fact of marriage may be material, either direct or collateral, in any civil court between any parties at any time, whether before or after the death of either or both the spouses. A void marriage is void by itself without need of any judicial declaration of nullity. Testimonial or documentary evidence may prove the absolute nullity of the previous marriage.[14]

In other instances, such as in action for liquidation, partition, distribution, and separation of property, custody, and support of common children and delivery of presumptive legitimes, testimonial or documentary evidence may prove the absolute nullity of the previous marriage, and judicial declaration of nullity is not required.[15] Likewise, this Court has recently settled that in a criminal case for bigamy, the accused may raise the defense of a void ab initio marriage even without obtaining a judicial declaration of absolute nullity.[16]

As applied in this case, even without the judicial declaration of nullity of marriage, the law considers Maria Lina's marriage to Edwin void because at the time they got married on February 22, 2003, Maria Lina still had a subsisting marriage with Ho Kar Wai.[17] Notably, Maria Lina's marriage with Ho Kar Wai was only dissolved through a Divorce Decree on November 28, 2007 and thus it was considered subsisting until its dissolution.[18]

As I will further discuss below, neither the Family Code nor A.M. No. 02-11-10-SC[19] makes any qualification on the spouse who may file a petition to declare a marriage void. Only the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders (Rationale) did. However, not only is the Rationale not part of A.M. 02-11-10-SC but it is not even the intent of the framers of said rule to make such qualification. The addition of the word "aggrieved" or "injured" before the word "spouse" is to highlight the fact that petitions for judicial declaration of the nullity of marriage cannot be filed by the compulsory or intestate heirs of the spouses or by the State because they are not the injured or aggrieved party in a void marriage. As oft-repeated in jurisprudence, A.M. No. 02-11-10-SC was introduced to end the right of the heirs of the deceased spouse to bring a nullity of marriage case against the surviving spouse because they have only inchoate rights prior to the death of their predecessor.[20]

If We follow the majority's interpretation instead, it will definitely lead to an absurd situation. If for instance, parties entered into a marriage knowing that they lack a marriage license, will the Court bar them from filing a petition for declaration of nullity of marriage just because they are not considered "aggrieved" or "injured?" What about in the case of child marriage, who can file? Will the parties, who were both minors at the time the marriage was celebrated, be barred from filing a petition later? When both of them are considered "guilty parties," who can file a petition for declaration of nullity of marriage in these instances?

We have to be mindful that recently, the Court ruled in *Clavecilla v. Clavecilla*[21] penned by the Chief Justice that "[e]ither spouse, whether psychologically incapacitated or not, may initiate a petition to declare the nullity of their marriage." [22] In other words, even if both parties gave grounds to nullify the marriage, the Court will still declare it void as there is nothing in the Family Code that says only the innocent spouse can file. This proceeds from the nature of a void marriage, as opposed to voidable marriages where Article 47 of the Family Code[23] provides that in certain cases, only the injured spouse can file, or in cases for legal separation where only the

injured spouse can file pursuant to Article 56.[24]

Given this, it appears incongruent to deny the Maria Lina's petition on the ground that she has no legal capacity to sue pursuant to Section 2(a) of A.M. No. 02-11-10-SC notwithstanding that Article 41 of Family Code expressly provides that a marriage contracted by any person during subsistence of a previous marriage shall be null and void. Denying the petition on the alleged lack of capacity to file, which is a procedural rule, in effect clouds the status of this subsequent marriage that is obviously void for being contrary to law.

This case is an opportune time to revisit and scrutinize the Court's pronouncement in *Fujiki v. Marinay*, as well as clarify Section 2 of A.M. No. 02-11-10-SC.

When Maria Lina filed the petition, A.M. No. 02-11-10-SC, a procedural rule, was already in effect. A reading of A.M. No. 02-11-10-SC tells us that solely the husband or wife can file a petition for declaration of absolute nullity of void marriage. On the other hand, the Rationale explains that "[o]nly an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages."

In accordance with the Rationale's qualification, the majority is of the view that Maria Lina has no legal capacity to file the petition for declaration of nullity of marriage. In holding that Ho Kar Wai is the one who has the legal capacity to file a petition for declaration of nullity of marriage in this case, the majority finds support in *Fujiki v. Marinay (Fujiki)*,[25] emphatically stating that "based on the rules and jurisprudence, the injured or aggrieved spouse in the prior subsisting marriage has the sole right to file the petition for declaration of nullity of the bigamous marriage." [26]

In light of the factual circumstances brought by this case and the provisions of the Family Code, in relation to Article 349 of the Revised Penal Code, I believe it is a proper time for this Court to revisit A.M. No. 02-11-10-SC, the Rationale, and the Court's interpretation of this provision in *Fujiki*.

Contrary to *Fujiki*, the general rule should remain that the wife or the husband may file the petition for declaration of nullity of marriage. The exception is in the case of a bigamous marriage, where the spouse of the existing first marriage is likewise authorized to file the petition for declaration of nullity of marriage.

It is worthy to emphasize that *Fujiki* traces its roots from *Juliano-Llave v. Republic (Juliano-Llave)*,[27] although *Fujiki* became a modified version of its precedent.

In *Fujiki*, the Court emphasized that when Section 2(a) states that a petition for declaration of absolute nullity of void bigamous marriage may be filed solely by the husband or the wife, it refers to the husband or the wife of the subsisting marriage, i.e., the first marriage. This is so because under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. The parties in a bigamous marriage are neither the husband nor the wife contemplated by the Rule,[28] thus:

Section 2(a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife"—it refers to the husband or the wife of the subsisting marriage. Under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the

personality to file a petition for declaration of absolute nullity of void marriage under Section 2(a) of A.M. No. 02-11-10-SC.[29]

There is no such categorical pronouncement in *Juliano-Llave*, though.

In *Juliano-Llave*, the wife in the first marriage filed a declaration of nullity of a bigamous marriage between her husband and the latter's second wife. The second wife challenged the legal personality of the first wife by arguing that under A.M. No. 02-11-10-SC, only the husband or the wife in a void marriage can file a petition for declaration of nullity of marriage. In debunking such contention, the Court, in stark contrast to *Fujiki*, implicitly acknowledged the plain and obvious rule that it should be the husband and wife of the void marriage that must file the pertinent petition. Ultimately, however, the Court held in *Juliano-Llave* that "this interpretation does not apply if the reason behind the petition is bigamy," as in this case, adding that "[if such] interpretation is employed, the prior spouse is unjustly precluded from filing an action, which "is not what the Rule contemplated." [30] *Juliano-Llave* further explains:

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[31]

The foregoing clearly reveals that *Fujiki's* application of *Juliano-Llave* must be clarified. The *Juliano-Llave* ruling instantly tells us that *Fujiki* erred in unequivocally holding that "when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife"[32]—it refers to the husband or the wife of the subsisting marriage" and that since "[u]nder Article 35(4) of the Family Code, bigamous marriages are void from the beginning[.]" "the parties in a bigamous marriage are neither the husband nor the wife under the law." [33] Technically, there is no subsisting marriage in all kinds of void marriages. Hence, there is no reason to distinguish the wife and husband in a void bigamous marriage from the spouses of other kinds of void marriages. In bigamous marriage, however, *Juliano-Llave* took due consideration of the financial and emotional position of the spouses in the first marriage, finding it an equitable and exceptional reason to authorize them to file the pertinent petition. Hence, as it now stands, the general rule is that only the husband or wife of the void marriage has the capacity to file the petition for judicial declaration of the nullity of marriage. By way of exception, the spouse in the subsisting first marriage is authorized to file a petition for the nullity of a bigamous marriage, pursuant to *Juliano-Llave*.

In addition, the interpretation in *Fujiki* that only the husband and wife in the subsisting marriage can file a petition unduly deprives innocent second spouses the right to seek the nullification of their bigamous marriages. In fact, *Fujiki* is inconsistent with the *Juliano-Llave* ruling in this respect because the latter impliedly recognized such right of the innocent second spouse to file the pertinent petition, thus:

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void.[34]

I respectfully object to the limitation that only the aggrieved or injured spouse may file the petition. To reiterate,

while the present rule allows either the husband or wife of the void marriage to file the petition for declaration of nullity of marriage, and as such, Edwin could have been authorized to file the same. However, the Rationale allegedly bars him from filing the same because he is not the injured spouse, given that he also knowingly entered into an illicit romance and later, a bigamous marriage with Maria Lina.

Evidently, there is a need to revisit *Fujiki* as it unduly prevents the innocent second spouse from filing a declaration of nullity of marriage when such limitation is not found in the Family Code, the A.M. No. 02-11-10-SC, and even its Rationale. Neither is it the import of the Court's ruling in *Juliano-Llave*. To continue relying on *Fujiki* will only unfairly disregard innocent second spouses' own emotional burden of finding out that their marriage does not exist. Moreover, it will unjustly force them to miserably remain in their illegal marriage as they have no way to get out of it unless the so-called aggrieved party decides to file the petition that could free them all from their unsavory entanglements. I repeat, A.M. No. 02-11-10-SC was introduced only to foreclose the right of the heirs of the deceased spouse to petition for the nullity of marriage against the surviving spouse because they have only inchoate rights prior to the death of their predecessor.[35]

Ultimately, to avoid similar iniquitous situations, the Court should do away with the unnecessary qualification created by the Rationale on who between the spouses in the void marriage is entitled to file a petition because the Family Code does not provide for such distinction.

As I earlier raised, what if there is no aggrieved spouse as when all three of them knew exactly what they are into and consented or acquiesced to such a situation or when, as in this case, the spouses in the bigamous marriage are both aware of their illicit affair and the spouse in the first marriage has already obtained a judicial recognition of the divorce? What if, when the spouse of the subsisting first marriage has the legal capacity to file, he or she is not interested to seek the nullification of the subsequent marriage? There are several what ifs that can be conjured given the realities of life, the present social dynamics, and the frailty of humankind. The more important question here is, what is the Court's judicious approach to settling cases involving a peculiar set of circumstances as in this case?

As stated earlier, based on the definition of an "aggrieved" or "injured" spouse under the Rationale, the majority declared Maria Lina lacking in legal capacity to file the petition given that she was the one who contracted the subsequent marriage. Furthermore, the majority did not refute Maria Lina's argument that Ho Kar Wai lost his status as the injured or aggrieved spouse in the prior subsisting marriage when he secured the Divorce Decree abroad. There being no aggrieved or injured spouse to seek the end of the bigamous marriage that would have capacitated Maria Lina and Edwin to remarry, the majority refused to consider Maria Lina's plea as "there is no compelling reason for the State to dissolve the illegitimate union of the bigamous spouses." [36]

Mindful of the Court's duty to make a calibrated assessment of facts and the law for a just resolution of cases and the broader interest of justice, it begs me to question: Would it really be a judicious resolution of this case for the Court to let Maria Lina and Edwin live as a married couple, when in the eyes of the law, their marriage is void, by blindly adhering to a technicality resulting from the Court's possibly unwarranted adoption of the Rationale?

While courts are, first and foremost, a court of law, magistrates are not automatons. In the eloquently written and thought-provoking prefatory statement in the case of *Alonzo v. Intermediate Appellate Court*, [37] the late former Associate Justice Isagani A. Cruz said:

The question is sometimes asked, in serious inquiry or in curious conjecture, whether we are a court of law or a court of justice. Do we apply the law even if it is unjust or do we administer justice even against the law? Thus

queried, we do not equivocate. The answer is that we do neither because we are a court both of law and of justice. We apply the law with justice for that is our mission and purpose in the scheme of our Republic.[38]

Indeed, as *De Guzman v. Sandiganbayan*[39] (*De Guzman*) emphatically declares, "[t]he power of this Court to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it, cannot be questioned." *De Guzman* further teaches that "[t]he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this Court itself has already declared to be final[.]"[40]

Following this premise, I dissent and encourage the banc to scrutinize the relevant statement in the Rationale and the dire results of its literal and stringent application, as shown by the majority's disposition where a palpably void subsequent marriage is being refused to be declared as such only because it is the erring spouse who filed the petition.

The phrase "aggrieved or injured spouse" is not found in the language of A.M. No. 02-11-10-SC but in its Rationale, which the majority heavily relies on. Without the Rationale, a reading of Section 2(a) will authorize Maria Lina or Edwin to file the petition. In line with this, I submit that while the Rationale is persuasive, it does not bind the Court. To reiterate, the Rationale does not form part of A.M. No. 02-11-10-SC. More importantly, I find nothing in the Family Code that supports the adoption of the qualification provided in the Rationale that only an aggrieved or injured spouse may file a petition for declaration of nullity of marriage. Instead, what the Family Code expressly contains are provisions stating the effects of a declaration of nullity of marriages in favor of an innocent spouse and against a spouse in bad faith, and also the consequence if both spouses of the subsequent marriage acted in bad faith.[41]

Ideally, the State, as part of its constitutional duty to protect the sanctity of marriage as a social institution, should have more interest in ensuring that void bigamous marriages do not exist in our society, let alone proliferate. It is also to the State's interest that the ill effects of such marriages be significantly minimized. In keeping with such mandate, the Court has compelling reason to declare a subsequent marriage void whenever the facts and evidence before it preponderantly proves that the second marriage is, in fact, what it purports to be.

Contrary to the majority's conclusion, this Court is not empowering an erring spouse to dissolve the void bigamous marriage "at will." As *Kalaw* states, "[n]o protection can be accorded to a marriage that is null and void ab initio[.]"[42] In decreeing the invalidity of a marriage, the court simply declares a status or condition which already exists from the very beginning.[43] In other words, Maria Lina is not dissolving her marriage "at will" because, in the first place, her subsequent marriage to Edwin is inexistent and without effect in the eyes of the law from its inception. She only seeks the judicial declaration of the nullity of the same.

At any rate, I also see no good reason to qualify the spouse who may file the pertinent petition. Granting that a petitioner may have gravely erred in contracting a void marriage and blatantly disregarded the institution of marriage, it is not enough reason to deprive him or her of the right granted by law to seek the dissolution of his or her void marriage.

I emphasize that neither the Family Code nor A.M. No. 02-11-10-SC makes any qualification on the spouse who may file a petition to declare a marriage void. Only the Rationale made the distinction. Even assuming that the drafters of A.M. No. 02-11-10-SC failed to have contemplated a situation, such as in this case, We see now the possibility that a party may admit that he or she is the erring party in a void marriage. The Court should do well to adapt to the present-day reality. The circumstances of this case warrant the liberality of the Court and a relaxation

of the rule such that the lack of an aggrieved party in this case should not prevent the Court from ultimately declaring the nullity of the void marriage between Maria Lina and Edwin.

Indubitably, a void bigamous marriage is contrary to law. In fact, contracting a bigamous marriage results in the crime of Bigamy, punishable under the Revised Penal Code. It is also against public policy; it does not promote the protection of the sanctity of marriage. However, declaring the nullity of the subsequent marriage between Maria Lina and Edwin, pursuant to Articles 35(4) and 41 of the Family Code, does not mean that this Court condones Maria Lina's transgression or downplays, the ill-effects of a void marriage. Because even if we declare this marriage void, the State can still hold parties liable for bigamy under Article 349 of the Revised Penal Code. As We ruled in *Abunado v. People*:^[44]

The subsequent judicial declaration of the nullity of the first marriage was immaterial because prior to the declaration of nullity, the crime had already been consummated. Moreover, petitioner's assertion would only delay the prosecution of bigamy cases considering that an accused could simply file a petition to declare his previous marriage void and invoke the pendency of that action as a prejudicial question in the criminal case. We cannot allow that.

The outcome of the civil case for annulment of petitioner's marriage to Narcisa had no bearing upon the determination of petitioner's innocence or guilt in the criminal case for bigamy, because all that is required for the charge of bigamy to prosper is that the first marriage be subsisting at the time the second marriage is contracted.^[45]

Given the foregoing, I dissent and the Court should have granted this petition as it is the only way for Maria Lina to rectify her grave mistake and formally put an end to an obviously void marriage. In doing so, the Court actually reinforces the State's interest in prohibiting parties from entering into bigamous marriage and preventing said void marriage from further unleashing its undesirable consequences.

[1] Ponencia, p. 5. The June 21, 2021 Decision in CA-G.R. CV No. 114777 was penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura.

[2] *Id.* The November 16, 2021 Resolution in CA-G.R. CV No. 114777 was penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura.

[3] *Id.* at 4.

[4] *Id.*

[5] *Id.* at 2.

[6] *Id.* at 2-3.

[7] *Id.*

[8] FAMILY CODE, Art. 41. A marriage contracted by any person during the subsistence of a previous marriage shall be null and void[.]

[9] 750 Phil. 482 (2015) [Per J. Bersamin, Special First Division].

[10] *Id.*

[11] *Pulido v. People*, G.R. No. 220149, July 27, 2021 [Per J. Hernando, En Banc], citing *J. Carpio, Concurring*

Opinion in *Abunado v. People*, 470 Phil. 420, 434 (2004) [Per J. Ynares-Santiago, First Division] where he cited Associate Justice Jose C. Vitug's *Civil Law, Persons and Family Relations*, Vol. I, (2003 ed.).

[12] *Id.*, citing *Niñal v. Bayadog*, 384 Phil. 661 (2000) [Per J. Ynares-Santiago, First Division].

[13] *Id.*

[14] See *Pulido v. People*, G.R. No. 220149, July 27, 2021 [Per J. Hernando, En Banc]; *Domingo v. Court of Appeals*, 297 Phil. 642 (1993) [Per J. Romero, Third Division].

[15] *Id.*

[16] *Id.*

[17] Ponencia, pp. 3-4.

[18] *Id.*; See *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, En Banc].

[19] RULES ON ANNULMENT OF VOIDABLE MARRIAGES AND DECLARATION OF ABSOLUTE NULLITY OF VOID MARRIAGES, LEGAL SEPARATION AND PROVISIONAL ORDERS.

[20] *David v. Calilung*, G.R. No. 241036, January 26, 2021 [Per J. Delos Santos, En Banc]; *Ablaza v. Republic*, 642 Phil. 183 (2010) [Per J. Bersamin, Third Division]; *Carlos v. Sandoval*, 594 Phil. 534 (2008) [Per J. R.T. Reyes, Third Division].

[21] G.R. No. 228127, March 6, 2023 [Per C.J. Gesmundo, First Division].

[22] *Id.*

[23] Art. 47. The action for annulment of marriage must be filed by the following persons and within the periods indicated herein:

(1) For causes mentioned in number 1 of Article 45 by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one, or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one;

(2) For causes mentioned in number 2 of Article 45, by the same spouse, who had no knowledge of the other's insanity; or by any relative or guardian or person having legal charge of the insane, at any time before the death of either party, or by the insane spouse during a lucid interval or after regaining sanity;

(3) For causes mentioned in number 3 of Article 45, by the injured party, within five years after the discovery of the fraud;

(4) For causes mentioned in number 4 of Article 45, by the injured party, within five years from the time the force, intimidation or undue influence disappeared or ceased;

(5) For causes mentioned in number 5 and 6 of Article 45, by the injured party, within five years after the marriage.

[24] Art. 56. The petition for legal separation shall be denied on any of the following grounds:

(1) Where the aggrieved party has condoned the offense or act complained of;

(2) Where the aggrieved party has consented to the commission of the offense or act complained of;

(3) Where there is connivance between the parties in the commission of the offense or act constituting the ground

for legal separation;

(4) Where both parties have given ground for legal separation;

(5) Where there is collusion between the parties to obtain decree of legal separation; or

(6) Where the action is barred by prescription.

[25] 712 Phil. 524 (2013) [Per J. Carpio, Second Division].

[26] Ponencia, p. 6.

[27] 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[28] Fujiki v. Marinay, 712 Phil. 524 (2013) [Per J. Carpio, Second Division]; Ponencia, pp. 7-8.

[29] Fujiki v. Marinay, 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].

[30] Juliano-Llave v. Republic, 662 Phil. 203, 222-223 (2011) [Per J. Del Castillo, First Division].

[31] Id. at 223-234.

[32] Emphasis in the original.

[33] Juliano-Llave v. Republic, 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[34] Id. at 223.

[35] David v. Calilung, G.R. No. 241036, January 26, 2021 [Per J. Delos Santos, En Banc]; Ablaza v. Republic, 642 Phil. 183 (2010) [Per J. Bersamin, Third Division]; Carlos v. Sandoval, 594 Phil. 534 (2008) [Per J. R.T. Reyes, Third Division].

[36] Ponencia, p. 11.

[37] 234 Phil. 267 (1987) [Per J. Cruz, En Banc].

[38] Id.

[39] 326 Phil. 182 (1996) [Per J. Francisco, En Banc].

[40] Id.

[41] See Article 50 of the FAMILY CODE, in relation to Articles 43 and 44.

[42] Id.

[43] Pulido v. People, G.R. No. 220149, July 27, 2021 [Per J. Hernando, En Banc], citing Suntay v. Cojuangco--Suntay, 360 Phil. 932, 944 (1998) [Per J. Martinez, Second Division].

[44] 470 Phil. 420 (2004) [Per J. Ynares-Santiago, First Division].

[45] Id. at 429-430.

SEPARATE CONCURRING OPINION

SINGH, J.:

I agree with the ruling in the ponencia that Maria Lina P. Quirit--Figarido (Maria Lina) lacks legal capacity to file a petition for the declaration of nullity of her marriage to respondent Edwin L. Figarido (Edwin). The conclusion stems from the fact that Maria Lina and Edwin knowingly contracted a bigamous marriage. Hence, Maria Lina is neither an "aggrieved" or "injured" spouse, nor is she an innocent spouse.

This ruling is anchored primarily on A.M. No. 02-11-10-SC, or the "Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages," as well as the cases of *Juliano-Llave v. Republic*[1] (*Juliano-Llave*) and *Fujiki vs. Marinay (Fujiki)*,[2] which purport to clarify the application of A.M. No. 02-11-10-SC.

For reference, Section 2(a) of A.M. No. 02-11-10-SC provides:

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.[3] (Emphasis supplied)

On the other hand, *Fujiki* states:

Section 2 (a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2 (a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife" — it refers to the husband or the wife of the subsisting marriage. Under Article 35 (4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2 (a) of A.M. No. 02-11-10-SC.[4] (Emphasis in the original.)

To further anchor its ruling, the ponencia refers to the Rationale for the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders (Rationale for the Rules), which states that an action for the declaration of nullity of a void marriage may be filed solely by the "aggrieved or injured spouse."

Given that the Rationale for the Rules is the only explicit basis cited for appending the restrictive terms of "aggrieved" and "injured" to the spouse that possesses legal standing and again, which terms do not appear in the actual text of Section 2(a) of A.M. No. 02-11-10-SC, it is worth reviewing the cases that discuss its application.

Pertinent line of cases citing the Rationale for the Rules

The case of *Enrico v. Heirs of Spouses Medinaceli (Enrico)*[5] provides a quotation from the pertinent portion of the Rationale for the Rules:

There is no ambiguity in the Rule. Absolute sententil expositore non indiget. When the language of the law is clear, no explanation of it is required. Section 2 (a) of A.M. No. 02-11-10-SC, 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 Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void

Marriages, Legal Separation and Provisional Orders explicates on Section 2 (a) in the following manner, viz:

1. Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

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.[6] (Emphasis supplied.)

The case of *Enrico* cited the Rationale for the Rules in a situation where the heirs of the first marriage assailed the subsequent marriage of *Eulogio* (who was deceased at the time of the case) and *Lolita*, for allegedly having been entered into without a marriage license, which would render it void.

There, the Court held that A.M. No. 02-11-10-SC applied, as the marriage between *Eulogio* and *Lolita* had been celebrated under the Family Code. It must be emphasized that the Rationale for the Rules was relevant in *Enrico* as it specifically provided that the compulsory or intestate heirs may not file a petition for declaration for nullity of marriage. Thus, the heirs were precluded from filing an action for declaration of nullity of marriage, as clearly explained in the Rationale for the Rules. In any case, as pointed out in *Enrico*, the Rule alone is sufficient, it being clear and unambiguous that only "the husband or the wife" may file the petition.

Enrico, and the same passage from the Rationale for the Rules, were then cited in *Juliano-Llave*.^[7] In *Juliano-Llave*, the wife of former Senator *Tamano*, *Zorayda*, filed a complaint for declaration of nullity of the marriage between *Tamano* and *Estrellita* on the ground that it was bigamous. One of the contentions of *Estrellita* was that *Zorayda* had no legal standing because "only the husband or the wife in a void marriage can file a petition for declaration of nullity of marriage."^[8] The Court referred to and quoted the same passage from the Rationale for the Rules (citing *Enrico*) as support for the following statements:

Estrellita claims that only the husband or the wife in a void marriage can file a petition for declaration of nullity of marriage. However, this interpretation does not apply if the reason behind the petition is bigamy.

In explaining why under A.M. No. 02-11-10-SC only the spouses may file the petition to the exclusion of compulsory or intestate heirs, we said:

The Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders explicates on Section 2(a) in the following manner, viz.:

(1) Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

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.

Note that the Rationale makes it clear that Section 2 (a) of A.M. No. 02-11-10-SC refers to the "aggrieved or

injured spouse." If Estrellita's interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[9] (Emphasis supplied)

Subsequently, Fujiki cites Juliano-Llave:

The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) does not apply in a petition to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country. Moreover, in *Juliano-Llave v. Republic*, this Court held that the rule in A.M. No. 02-11-10-SC that only the husband or wife can file a declaration of nullity or annulment of marriage "does not apply if the reason behind the petition is bigamy."

....

When the right of the spouse to protect his marriage is violated, the spouse is clearly an injured party and is therefore interested in the judgment of the suit. *Juliano-Llave* ruled that the prior spouse "is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse." Being a real party in interest, the prior spouse is entitled to sue in order to declare a bigamous marriage void. For this purpose, he can petition a court to recognize a foreign judgment nullifying the bigamous marriage and judicially declare as a fact that such judgment is effective in the Philippines. Once established, there should be no more impediment to cancel the entry of the bigamous marriage in the civil registry.[10] (Emphasis supplied.)

It should be noted, at this point, that the pronouncements of Fujiki on this issue clearly constitute obiter dicta. Fujiki categorically states that "[t]he Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) does not apply in a petition to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country." [11] The situation just described is precisely the very situation that was before the Court in *Fujiki*.

Regardless of the characterization of the statements in *Fujiki* as obiter, the statements in *Juliano-Llave* are admittedly on point with the current case.

Reexamining the ponencia's legal basis

It cannot be overemphasized that the actual text of Section 2(a) of A.M. No. 02-11-10-SC does not include the terms "aggrieved" or "injured." These restrictive terms appear only in the Rationale for the Rules. It was only in *Juliano-Llave* that the Court expounded on the terms "aggrieved" and "injured," and held that the interpretation that "only the husband or the wife in a void marriage can file a petition for declaration of nullity of marriage" does not apply if the ground is bigamy. As for *Fujiki*, as stated earlier, it should be considered obiter dicta as regards the pertinent issue despite its attempts to bolster and in fact further restrict the rule enunciated in *Juliano-Llave*.

Not only is the text of Section 2(a) of A.M. No. 02-11-10-SC already clear on its face, referring to a husband or a wife, but the Rationale for the Rules purports to add the restrictive terms of "aggrieved" or "injured" without defining the same. As such, the ruling in *Juliano-Llave* was forced to carve out a jurisprudential exception in cases of bigamy based on its own interpretation.

It is submitted, therefore, that the more reasonable and equitable interpretation is that in cases where a marriage is sought to be declared void on the grounds of bigamy, legal standing to file the petition for declaration of nullity of marriage includes the innocent spouse in the bigamous marriage and the spouse in the prior and subsisting marriage. Such a rule would preserve the spirit of *Juliano-Llave*'s reasoning, without precluding, perhaps unfairly, an innocent spouse in a bigamous marriage from seeking to correct their civil status. This interpretation is also consistent with the ruling in *Juliano-Llave*. To recall, while that case granted standing to the prior spouse, it did not rule that the spouses of the bigamous marriage lacked standing to file a petition for declaration of nullity of marriage, not least because such a ruling would be obiter.

Further, the statement in *Fujiki* that attempts to rule explicitly that "the parties in a bigamous marriage are neither the husband nor the wife under the law," which can be viewed as an even more restrictive interpretation than that propounded in *Juliano-Llave*, is, without certainty, devoid of precedential value.

It is true, of course, that Article 40 of the Family Code provides that "[t]he absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void." It is not clear, however, that there was a legislative intent to, in cases of bigamy, restrict standing to seek such final judgment to the aggrieved spouse of the valid prior marriage only, and to the exclusion of the innocent spouse in the bigamous marriage, in the manner that Section 2(a) of A.M. No. 02-11-10-SC does (as seemingly explained by the Rationale for the Rules, and, in turn, as clarified by *Juliano-Llave* and doubled down on by *Fujiki*).

Concededly, the facts of the present case state that Maria Lina knew that her marital status with Ho Kar Wai posed an obstacle to her relationship with Edwin.^[12] Hence, Maria Lina is not an innocent spouse and is ineligible to file the petition for declaration of nullity of marriage. As Edwin is also a guilty spouse, and Ho Kar Wai has already divorced Maria Lina, there exists no spouse with legal capacity to file the petition. The Petition was, therefore, correctly denied.

The place of policy, and the need for clarity, in the rules of procedure

I submit, therefore, that A.M. No. 02-11-10-SC should be amended to better reflect and crystallize the rule that the ponencia seeks to lay down categorically. Precisely, I respectfully propose that the aggrieved or injured spouse of the prior subsisting marriage or the innocent spouse in a bigamous marriage may file the petition for declaration of nullity of marriage. This would appear to be a more elegant solution to address why Section 2(a) of A.M. No. 02-11-10-SC so clearly reads one way, but the Rationale for the Rules, as laboriously clarified by jurisprudence, requires that it be read differently in cases of bigamy.

For, as stated in *Enrico*, "[w]hen the language of the law is clear, no explanation of it is required."^[13] As procedural rules are explicitly within the Court's domain, it would be a service to the public to render the language of the rule clear, so that no explanation, by way of carving out labored jurisprudential exceptions, is required.

For the consideration of the ponente and the Banc.

All things considered, I vote to DENY the Petition.

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- [1] *Juliano-Llave v. Republic*, 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].
- [2] *Fujiki v. Marinay*, 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].
- [3] *Administrative Matter No. 02-11-10-SC* (2003), Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.
- [4] *Fujiki v. Marinay*, 712 Phil. 524, 550-551 (2013) [Per J. Carpio, Second Division].
- [5] *Enrico v. Heirs of Spouses Medinaceli*, 560 Phil 673 (2007) [Per J. Chico-Nazario, Third Division].
- [6] *Id.* at 682-683.
- [7] *Juliano-Llave v. Republic*, 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].
- [8] *Id.* at 222.
- [9] *Id.* at 222-224.
- [10] *Fujiki v. Marinay*, 712 Phil. 524, 543-544, 551-552 (2013) [Per J. Carpio, Second Division].
- [11] *Id.* at 544.
- [12] *Id.* at 2.
- [13] *Enrico v. Heirs of Spouses Medinaceli*, 560 Phil. 673 (2007) [Per J. Chico-Nazario, Third Division].

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