



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SALLY GO-BANGAYAN,
Petitioner,

G.R. No. 201061

Present:

- versus -

CARPIO, J., Chairperson,
BRION,
BERSAMIN,*
DEL CASTILLO, and
PEREZ, JJ.

BENJAMIN BANGAYAN, JR.,
Respondent.

Promulgated:

JUL 03 2013

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DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review¹ assailing the 17 August 2011 Decision² and the 14 March 2012 Resolution³ of the Court of Appeals in CA-G.R. CV No. 94226.

The Antecedent Facts

On 15 March 2004, Benjamin Bangayan, Jr. (Benjamin) filed a petition for declaration of a non-existent marriage and/or declaration of nullity of marriage before the Regional Trial Court of Manila, Branch 43 (trial court). The case was docketed as Civil Case No. 04109401. Benjamin

* Designated additional member per Raffle dated 8 October 2012.

¹ Under Rule 45 of the Rules of Court.

² *Rollo*, pp. 29-40. Penned by Associate Justice (now Supreme Court Associate Justice) Estela M. Perlas-Bernabe with Associate Justices Bienvenido L. Reyes (now also a Supreme Court Associate Justice) and Samuel H. Gaerlan, concurring.

³ *Id.* at 52. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Amelita G. Tolentino and Ramon R. Garcia, concurring.

alleged that on 10 September 1973, he married Azucena Alegre (Azucena) in Caloocan City. They had three children, namely, Rizalyn, Emmamylín, and Benjamin III.

In 1979, Benjamin developed a romantic relationship with Sally Go-Bangayan (Sally) who was a customer in the auto parts and supplies business owned by Benjamin's family. In December 1981, Azucena left for the United States of America. In February 1982, Benjamin and Sally lived together as husband and wife. Sally's father was against the relationship. On 7 March 1982, in order to appease her father, Sally brought Benjamin to an office in Santolan, Pasig City where they signed a purported marriage contract. Sally, knowing Benjamin's marital status, assured him that the marriage contract would not be registered.

Benjamin and Sally's cohabitation produced two children, Bernice and Bentley. During the period of their cohabitation, they acquired the following real properties:

- (1) property under Transfer Certificate of Title (TCT) No. 61722 registered in the names of Benjamin and Sally as spouses;
- (2) properties under TCT Nos. 61720 and 190860 registered in the name of Benjamin, married to Sally;
- (3) properties under Condominium Certificate of Title (CCT) Nos. 8782 and 8783 registered in the name of Sally, married to Benjamin; and
- (4) properties under TCT Nos. N-193656 and 253681 registered in the name of Sally as a single individual.

The relationship of Benjamin and Sally ended in 1994 when Sally left for Canada, bringing Bernice and Bentley with her. She then filed criminal actions for bigamy and falsification of public documents against Benjamin, using their simulated marriage contract as evidence. Benjamin, in turn, filed a petition for declaration of a non-existent marriage and/or declaration of nullity of marriage before the trial court on the ground that his marriage to Sally was bigamous and that it lacked the formal requisites to a valid marriage. Benjamin also asked the trial court for the partition of the properties he acquired with Sally in accordance with Article 148 of the Family Code, for his appointment as administrator of the properties during the pendency of the case, and for the declaration of Bernice and Bentley as illegitimate children. A total of 44 registered properties became the subject of the partition before the trial court. Aside from the seven properties enumerated by Benjamin in his petition, Sally named 37 properties in her answer.

After Benjamin presented his evidence, Sally filed a demurrer to evidence which the trial court denied. Sally filed a motion for reconsideration which the trial court also denied. Sally filed a petition for certiorari before the Court of Appeals and asked for the issuance of a temporary restraining order and/or injunction which the Court of Appeals never issued. Sally then refused to present any evidence before the trial court citing the pendency of her petition before the Court of Appeals. The trial court gave Sally several opportunities to present her evidence on 28 February 2008, 10 July 2008, 4 September 2008, 11 September 2008, 2 October 2008, 23 October 2008, and 28 November 2008. Despite repeated warnings from the trial court, Sally still refused to present her evidence, prompting the trial court to consider the case submitted for decision.

The Decision of the Trial Court

In a Decision⁴ dated 26 March 2009, the trial court ruled in favor of Benjamin. The trial court gave weight to the certification dated 21 July 2004 from the Pasig Local Civil Registrar, which was confirmed during trial, that only Marriage License Series Nos. 6648100 to 6648150 were issued for the month of February 1982 and the purported Marriage License No. N-07568 was not issued to Benjamin and Sally.⁵ The trial court ruled that the marriage was not recorded with the local civil registrar and the National Statistics Office because it could not be registered due to Benjamin's subsisting marriage with Azucena.

The trial court ruled that the marriage between Benjamin and Sally was not bigamous. The trial court ruled that the second marriage was void not because of the existence of the first marriage but because of other causes, particularly, the lack of a marriage license. Hence, bigamy was not committed in this case. The trial court did not rule on the issue of the legitimacy status of Bernice and Bentley because they were not parties to the case. The trial court denied Sally's claim for spousal support because she was not married to Benjamin. The trial court likewise denied support for Bernice and Bentley who were both of legal age and did not ask for support.

On the issue of partition, the trial court ruled that Sally could not claim the 37 properties she named in her answer as part of her conjugal properties with Benjamin. The trial court ruled that Sally was not legally married to Benjamin. Further, the 37 properties that Sally was claiming were owned by Benjamin's parents who gave the properties to their children, including Benjamin, as advance inheritance. The 37 titles were in the names of Benjamin and his brothers and the phrase "married to Sally Go" was merely descriptive of Benjamin's civil status in the title. As regards the two lots under TCT Nos. 61720 and 190860, the trial court found that they were

⁴ Id. at 107-123. Penned by Presiding Judge Roy G. Gironella.

⁵ Records, Vol. 2, p. 461.

bought by Benjamin using his own money and that Sally failed to prove any actual contribution of money, property or industry in their purchase. The trial court found that Sally was a registered co-owner of the lots covered by TCT Nos. 61722, N-193656, and 253681 as well as the two condominium units under CCT Nos. 8782 and 8783. However, the trial court ruled that the lot under TCT No. 61722 and the two condominium units were purchased from the earnings of Benjamin alone. The trial court ruled that the properties under TCT Nos. 61722, 61720, and 190860 and CCT Nos. 8782 and 8783 were part of the conjugal partnership of Benjamin and Azucena, without prejudice to Benjamin's right to dispute his conjugal state with Azucena in a separate proceeding.

The trial court further ruled that Sally acted in bad faith because she knew that Benjamin was married to Azucena. Applying Article 148 of the Family Code, the trial court forfeited Sally's share in the properties covered under TCT Nos. N-193656 and 253681 in favor of Bernice and Bentley while Benjamin's share reverted to his conjugal ownership with Azucena.

The dispositive portion of the trial court's decision reads:

ACCORDINGLY, the marriage of BENJAMIN BANGAYAN, JR. and SALLY S. GO on March 7, 1982 at Santolan, Pasig, Metro Manila is hereby declared NULL and VOID AB INITIO. It is further declared NON-EXISTENT.

Respondent's claim as co-owner or conjugal owner of the thirty-seven (37) properties under TCT Nos. 17722, 17723, 17724, 17725, 126397, RT-73480, and RT-86821; in Manila, TCT Nos. 188949, 188950, 188951, 193035, 194620, 194621, 194622, 194623, 194624, 194625, 194626, 194627, 194628, 194629, 194630, 194631, 194632, 194633, 194634, 194635, 194636, 194637, 194638, 194639, 198651, 206209, 206210, 206211, 206213 and 206215 is DISMISSED for lack of merit. The registered owners, namely: Benjamin B. Bangayan, Jr., Roberto E. Bangayan, Ricardo B. Bangayan and Rodrigo B. Bangayan are the owners to the exclusion of "*Sally Go*" Consequently, the Registry of Deeds for Quezon City and Manila are directed to delete the words "*married to Sally Go*" from these thirty[-]seven (37) titles.

Properties under TCT Nos. 61722, 61720 and 190860, CCT Nos. 8782 and 8783 are properties acquired from petitioner's money without contribution from respondent, hence, these are properties of the petitioner and his lawful wife. Consequently, petitioner is appointed the administrator of these five (5) properties. Respondent is ordered to submit an accounting of her collections of income from these five (5) properties within thirty (30) days from notice hereof. Except for lot under TCT No. 61722, respondent is further directed within thirty (30) days from notice hereof to turn over and surrender control and possession of these properties including the documents of title to the petitioner.

On the properties under TCT Nos. N-193656 and N-253681, these properties are under co-ownership of the parties shared by them equally. However, the share of respondent is declared FORFEITED in favor of Bernice Go Bangayan and Bentley Go Bangayan. The share of the petitioner shall belong to his conjugal ownership with Azucena Alegre. The liquidation, partition and distribution of these two (2) properties shall be further processed pursuant to Section 21 of A.M. No. 02-11-10 of March 15, 2003.

Other properties shall be adjudicated in a later proceeding pursuant to Section 21 of A.M. No. 02-11-10.

Respondent's claim of spousal support, children support and counterclaims are DISMISSED for lack of merit. Further, no declaration of the status of the parties' children.

No other relief granted.

Furnish copy of this decision to the parties, their counsels, the Trial Prosecutor, the Solicitor General and the Registry of Deeds in Manila, Quezon City and Caloocan.

SO ORDERED.⁶

Sally filed a Verified and Vigorous Motion for Inhibition with Motion for Reconsideration. In its Order dated 27 August 2009,⁷ the trial court denied the motion. Sally appealed the trial court's decision before the Court of Appeals.

The Decision of the Court of Appeals

In its 17 August 2011 Decision, the Court of Appeals partly granted the appeal. The Court of Appeals ruled that the trial court did not err in submitting the case for decision. The Court of Appeals noted that there were six resettings of the case, all made at the instance of Sally, for the initial reception of evidence, and Sally was duly warned to present her evidence on the next hearing or the case would be deemed submitted for decision. However, despite the warning, Sally still failed to present her evidence. She insisted on presenting Benjamin who was not around and was not subpoenaed despite the presence of her other witnesses.

The Court of Appeals rejected Sally's allegation that Benjamin failed to prove his action for declaration of nullity of marriage. The Court of Appeals ruled that Benjamin's action was based on his prior marriage to Azucena and there was no evidence that the marriage was annulled or dissolved before Benjamin contracted the second marriage with Sally. The Court of Appeals ruled that the trial court committed no error in declaring

⁶ Id. at 122-123.

⁷ Id. at 124-128.

Benjamin's marriage to Sally null and void.

The Court of Appeals ruled that the property relations of Benjamin and Sally was governed by Article 148 of the Family Code. The Court of Appeals ruled that only the properties acquired by the parties through their actual joint contribution of money, property or industry shall be owned by them in common in proportion to their respective contribution. The Court of Appeals ruled that the 37 properties being claimed by Sally rightfully belong to Benjamin and his siblings.

As regards the seven properties claimed by both parties, the Court of Appeals ruled that only the properties under TCT Nos. 61720 and 190860 registered in the name of Benjamin belong to him exclusively because he was able to establish that they were acquired by him solely. The Court of Appeals found that the properties under TCT Nos. N-193656 and 253681 and under CCT Nos. 8782 and 8783 were exclusive properties of Sally in the absence of proof of Benjamin's actual contribution in their purchase. The Court of Appeals ruled that the property under TCT No. 61722 registered in the names of Benjamin and Sally shall be owned by them in common, to be shared equally. However, the share of Benjamin shall accrue to the conjugal partnership under his existing marriage with Azucena while Sally's share shall accrue to her in the absence of a clear and convincing proof of bad faith.

Finally, the Court of Appeals ruled that Sally failed to present clear and convincing evidence that would show bias and prejudice on the part of the trial judge that would justify his inhibition from the case.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the instant appeal is PARTLY GRANTED. The assailed Decision and Order dated March 26, 2009 and August 27, 2009, respectively, of the Regional Trial Court of Manila, Branch 43, in Civil Case No. 04-109401 are hereby AFFIRMED with modification declaring TCT Nos. 61720 and 190860 to be exclusively owned by the petitioner-appellee while the properties under TCT Nos. N-193656 and 253681 as well as [CCT] Nos. 8782 and 8783 shall be solely owned by the respondent-appellant. On the other hand, TCT No. 61722 shall be owned by them and common and to be shared equally but the share of the petitioner-appellee shall accrue to the conjugal partnership under his first marriage while the share of respondent-appellant shall accrue to her. The rest of the decision stands.

SO ORDERED.⁸

Sally moved for the reconsideration of the Court of Appeals' decision. In its 14 March 2012 Resolution, the Court of Appeals denied her motion.

⁸ Id. at 40.

Hence, the petition before this Court.

The Issues

Sally raised the following issues before this Court:

- (1) Whether the Court of Appeals committed a reversible error in affirming the trial court's ruling that Sally had waived her right to present evidence;
- (2) Whether the Court of Appeals committed a reversible error in affirming the trial court's decision declaring the marriage between Benjamin and Sally null and void *ab initio* and non-existent; and
- (3) Whether the Court of Appeals committed a reversible error in affirming with modification the trial court's decision regarding the property relations of Benjamin and Sally.

The Ruling of this Court

The petition has no merit.

Waiver of Right to Present Evidence

Sally alleges that the Court of Appeals erred in affirming the trial court's ruling that she waived her right to present her evidence. Sally alleges that in not allowing her to present evidence that she and Benjamin were married, the trial court abandoned its duty to protect marriage as an inviolable institution.

It is well-settled that a grant of a motion for continuance or postponement is not a matter of right but is addressed to the discretion of the trial court.⁹ In this case, Sally's presentation of evidence was scheduled on 28 February 2008. Thereafter, there were six resettings of the case: on 10 July 2008, 4 and 11 September 2008, 2 and 28 October 2008, and 28 November 2008. They were all made at Sally's instance. Before the scheduled hearing of 28 November 2008, the trial court warned Sally that in case she still failed to present her evidence, the case would be submitted for decision. On the date of the scheduled hearing, despite the presence of other available witnesses, Sally insisted on presenting Benjamin who was not even subpoenaed on that day. Sally's counsel insisted that the trial court could not dictate on the priority of witnesses to be presented, disregarding

⁹ See *Bautista v. Court of Appeals*, G.R. No. 157219, 28 May 2004, 430 SCRA 353.

the trial court's prior warning due to the numerous resettings of the case. Sally could not complain that she had been deprived of her right to present her evidence because all the postponements were at her instance and she was warned by the trial court that it would submit the case for decision should she still fail to present her evidence on 28 November 2008.

We agree with the trial court that by her continued refusal to present her evidence, she was deemed to have waived her right to present them. As pointed out by the Court of Appeals, Sally's continued failure to present her evidence despite the opportunities given by the trial court showed her lack of interest to proceed with the case. Further, it was clear that Sally was delaying the case because she was waiting for the decision of the Court of Appeals on her petition questioning the trial court's denial of her demurrer to evidence, despite the fact that the Court of Appeals did not issue any temporary restraining order as Sally prayed for. Sally could not accuse the trial court of failing to protect marriage as an inviolable institution because the trial court also has the duty to ensure that trial proceeds despite the deliberate delay and refusal to proceed by one of the parties.¹⁰

Validity of the Marriage between Benjamin and Sally

Sally alleges that both the trial court and the Court of Appeals recognized her marriage to Benjamin because a marriage could not be non-existent and, at the same time, null and void *ab initio*. Sally further alleges that if she were allowed to present her evidence, she would have proven her marriage to Benjamin. To prove her marriage to Benjamin, Sally asked this Court to consider that in acquiring real properties, Benjamin listed her as his wife by declaring he was "married to" her; that Benjamin was the informant in their children's birth certificates where he stated that he was their father; and that Benjamin introduced her to his family and friends as his wife. In contrast, Sally claims that there was no real property registered in the names of Benjamin and Azucena. Sally further alleges that Benjamin was not the informant in the birth certificates of his children with Azucena.

First, Benjamin's marriage to Azucena on 10 September 1973 was duly established before the trial court, evidenced by a certified true copy of their marriage contract. At the time Benjamin and Sally entered into a purported marriage on 7 March 1982, the marriage between Benjamin and Azucena was valid and subsisting.

On the purported marriage of Benjamin and Sally, Teresita Oliveros (Oliveros), Registration Officer II of the Local Civil Registrar of Pasig City, testified that there was no valid marriage license issued to Benjamin and Sally. Oliveros confirmed that only Marriage Licence Nos. 6648100 to 6648150 were issued for the month of February 1982. Marriage License

¹⁰ Id.

No. N-07568 did not match the series issued for the month. Oliveros further testified that the local civil registrar of Pasig City did not issue Marriage License No. N-07568 to Benjamin and Sally. The certification from the local civil registrar is adequate to prove the non-issuance of a marriage license and absent any suspicious circumstance, the certification enjoys probative value, being issued by the officer charged under the law to keep a record of all data relative to the issuance of a marriage license.¹¹ Clearly, if indeed Benjamin and Sally entered into a marriage contract, the marriage was void from the beginning for lack of a marriage license.¹²

It was also established before the trial court that the purported marriage between Benjamin and Sally was not recorded with the local civil registrar and the National Statistics Office. The lack of record was certified by Julieta B. Javier, Registration Officer IV of the Office of the Local Civil Registrar of the Municipality of Pasig;¹³ Teresita R. Ignacio, Chief of the Archives Division of the Records Management and Archives Office, National Commission for Culture and the Arts;¹⁴ and Lourdes J. Hufana, Director III, Civil Registration Department of the National Statistics Office.¹⁵ The documentary and testimonial evidence proved that there was no marriage between Benjamin and Sally. As pointed out by the trial court, the marriage between Benjamin and Sally “was made only in jest”¹⁶ and “a simulated marriage, at the instance of [Sally], intended to cover her up from expected social humiliation coming from relatives, friends and the society especially from her parents seen as Chinese conservatives.”¹⁷ In short, it was a fictitious marriage.

The fact that Benjamin was the informant in the birth certificates of Bernice and Bentley was not a proof of the marriage between Benjamin and Sally. This Court notes that Benjamin was the informant in Bernice’s birth certificate which stated that Benjamin and Sally were married on 8 March 1982¹⁸ while Sally was the informant in Bentley’s birth certificate which

¹¹ *Nicdao Cariño v. Yee Cariño*, 403 Phil. 861 (2001).

¹² Article 35 of the Family Code states:

Art. 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.

¹³ Records, Vol. 2, p. 458.

¹⁴ Id. at 459.

¹⁵ Id. at 460.

¹⁶ *Rollo*, p. 112.

¹⁷ Id.

¹⁸ Records, Vol. 1, p. 65.

also stated that Benjamin and Sally were married on 8 March 1982.¹⁹ Benjamin and Sally were supposedly married on 7 March 1982 which did not match the dates reflected on the birth certificates.

We see no inconsistency in finding the marriage between Benjamin and Sally null and void *ab initio* and, at the same time, non-existent. Under Article 35 of the Family Code, a marriage solemnized without a license, except those covered by Article 34 where no license is necessary, “shall be void from the beginning.” In this case, the marriage between Benjamin and Sally was solemnized without a license. It was duly established that no marriage license was issued to them and that Marriage License No. N-07568 did not match the marriage license numbers issued by the local civil registrar of Pasig City for the month of February 1982. The case clearly falls under Section 3 of Article 35²⁰ which made their marriage void *ab initio*. The marriage between Benjamin and Sally was also non-existent. Applying the general rules on void or inexistent contracts under Article 1409 of the Civil Code, contracts which are absolutely simulated or fictitious are “inexistent and void from the beginning.”²¹ Thus, the Court of Appeals did not err in sustaining the trial court’s ruling that the marriage between Benjamin and Sally was null and void *ab initio* and non-existent.

Except for the modification in the distribution of properties, the Court of Appeals affirmed in all aspects the trial court’s decision and ruled that “[t]he rest of the decision stands.”²² While the Court of Appeals did not discuss bigamous marriages, it can be gleaned from the dispositive portion of the decision declaring that “[t]he rest of the decision stands” that the Court of Appeals adopted the trial court’s discussion that the marriage between Benjamin and Sally is not bigamous. The trial court stated:

On whether or not the parties’ marriage is bigamous under the concept of Article 349 of the Revised Penal Code, the marriage is not bigamous. It is required that the first or former marriage shall not be null and void. The marriage of the petitioner to Azucena shall be assumed as the one that is valid, there being no evidence to the contrary and there is no trace of invalidity or irregularity on the face of their marriage contract. However, if the second marriage was void not because of the existence of the first marriage but for other causes such as lack of license, the crime of bigamy was not committed. In *People v. De Lara* [CA, 51 O.G., 4079], it was held that what was committed was contracting marriage against the provisions of laws not under Article 349 but Article 350 of the Revised Penal Code. Concluding, the marriage of the parties is therefore not bigamous because there was no marriage license. The daring and repeated stand of respondent that she is legally married to petitioner cannot, in any

¹⁹ Id. at 66.

²⁰ Supra note 12.

²¹ Article 1409. The following contracts are inexistent and void from the beginning:

x x x x

(2) Those which are absolutely simulated or fictitious;

x x x x

²² *Rollo*, p. 40.

instance, be sustained. Assuming that her marriage to petitioner has the marriage license, yet the same would be bigamous, civilly or criminally as it would be invalidated by a prior existing valid marriage of petitioner and Azucena.²³

For bigamy to exist, the second or subsequent marriage must have all the essential requisites for validity except for the existence of a prior marriage.²⁴ In this case, there was really no subsequent marriage. Benjamin and Sally just signed a purported marriage contract without a marriage license. The supposed marriage was not recorded with the local civil registrar and the National Statistics Office. In short, the marriage between Benjamin and Sally did not exist. They lived together and represented themselves as husband and wife without the benefit of marriage.

Property Relations Between Benjamin and Sally

The Court of Appeals correctly ruled that the property relations of Benjamin and Sally is governed by Article 148 of the Family Code which states:

Art. 148. In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidences of credit.

If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community of conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her share shall be forfeited in the manner provided in the last paragraph of the preceding Article.

The foregoing rules on forfeiture shall likewise apply even if both parties are in bad faith.

Benjamin and Sally cohabitated without the benefit of marriage. Thus, only the properties acquired by them through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. Thus, both the trial court and the Court of Appeals correctly excluded the 37 properties being claimed by Sally which were given by Benjamin's father to his children as advance inheritance. Sally's Answer to the petition before the trial court even admitted that "Benjamin's late father himself conveyed a number of properties to his children and their respective spouses which included Sally

²³ Id. at 112-113.

²⁴ See *Nollora, Jr. v. People*, G.R. No. 191425, 7 September 2011, 657 SCRA 330.

x x x.”²⁵

As regards the seven remaining properties, we rule that the decision of the Court of Appeals is more in accord with the evidence on record. Only the property covered by TCT No. 61722 was registered in the names of Benjamin and Sally as spouses.²⁶ The properties under TCT Nos. 61720 and 190860 were in the name of Benjamin²⁷ with the descriptive title “married to Sally.” The property covered by CCT Nos. 8782 and 8783 were registered in the name of Sally²⁸ with the descriptive title “married to Benjamin” while the properties under TCT Nos. N-193656 and 253681 were registered in the name of Sally as a single individual. We have ruled that the words “married to” preceding the name of a spouse are merely descriptive of the civil status of the registered owner.²⁹ Such words do not prove co-ownership. Without proof of actual contribution from either or both spouses, there can be no co-ownership under Article 148 of the Family Code.³⁰

Inhibition of the Trial Judge

Sally questions the refusal of Judge Roy G. Gironella (Judge Gironella) to inhibit himself from hearing the case. She cited the failure of Judge Gironella to accommodate her in presenting her evidence. She further alleged that Judge Gironella practically labeled her as an opportunist in his decision, showing his partiality against her and in favor of Benjamin.

We have ruled that the issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge.³¹ To justify the call for inhibition, there must be extrinsic evidence to establish bias, bad faith, malice, or corrupt purpose, in addition to palpable error which may be inferred from the decision or order itself.³² In this case, we have sufficiently explained that Judge Gironella did not err in submitting the case for decision because of Sally’s continued refusal to present her evidence.

We reviewed the decision of the trial court and while Judge Gironella may have used uncomplimentary words in writing the decision, they are not enough to prove his prejudice against Sally or show that he acted in bad faith in deciding the case that would justify the call for his voluntary inhibition.

²⁵ Records, Vol. 1, p. 50.

²⁶ Id. at 23.

²⁷ Id. at 24-26.

²⁸ Id. at 27-28.

²⁹ *Acre v. Yuttikki*, 560 Phil. 495 (2007).

³⁰ Id.

³¹ *Kilosbayan Foundation v. Janolo, Jr.*, G.R. No. 180543, 27 July 2010, 625 SCRA 684.

³² *Ramiscal, Jr. v. Hernandez*, G.R. Nos. 173057-74, 27 September 2010, 631 SCRA 312.

WHEREFORE, we **AFFIRM** the 17 August 2011 Decision and the 14 March 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 94226.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:



ARTURO D. BRION
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice