



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE
PHILIPPINES,

Petitioner,

G.R. No. 198780

Present:

VELASCO, JR., *J.*, *Chairperson*,
LEONARDO-DE CASTRO,*
BRION,**
PERALTA, and
MENDOZA, *JJ.*

- versus -

LIBERTY D. ALBIOS,

Respondent.

Promulgated:

October 16, 2013

X ----- X
Macapuno

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the September 29, 2011 Decision¹ of the Court of Appeals (CA), in CA-G.R. CV No. 95414, which affirmed the April 25, 2008 Decision² of the Regional Trial Court, Imus, Cavite (RTC), declaring the marriage of Daniel Lee Fringer (*Fringer*) and respondent Liberty Albios (*Albios*) as void from the beginning.

* Designated Acting Member in lieu of Associate Justice Marvic Mario Victor F. Leonen, per Special Order No. 1570 dated October 14, 2013.

** Designated Acting Member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1554 dated September 19, 2013.

¹ *Rollo*, pp. 26-32; penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justice Ramon M. Bato, Jr. and Associate Justice Florito S. Macalino of the Fifth Division, Manila.

² *Id.* at 38-39.

The Facts

On October 22, 2004, Fringer, an American citizen, and Albios were married before Judge Ofelia I. Calo of the Metropolitan Trial Court, Branch 59, Mandaluyong City (*MeTC*), as evidenced by a Certificate of Marriage with Register No. 2004-1588.³

On December 6, 2006, Albios filed with the RTC a petition for declaration of nullity⁴ of her marriage with Fringer. She alleged that immediately after their marriage, they separated and never lived as husband and wife because they never really had any intention of entering into a married state or complying with any of their essential marital obligations. She described their marriage as one made in jest and, therefore, null and void *ab initio*.

Summons was served on Fringer but he did not file his answer. On September 13, 2007, Albios filed a motion to set case for pre-trial and to admit her pre-trial brief. The RTC ordered the Assistant Provincial Prosecutor to conduct an investigation and determine the existence of a collusion. On October 2, 2007, the Assistant Prosecutor complied and reported that she could not make a determination for failure of both parties to appear at the scheduled investigation.

At the pre-trial, only Albios, her counsel and the prosecutor appeared. Fringer did not attend the hearing despite being duly notified of the schedule. After the pre-trial, hearing on the merits ensued.

Ruling of the RTC

In its April 25, 2008 Decision,⁵ the RTC declared the marriage void *ab initio*, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the marriage of Liberty Albios and Daniel Lee Fringer as void from the very beginning. As a necessary consequence of this pronouncement, petitioner shall cease using

³ Id. at 37.

⁴ Id. at 33-35.

⁵ Id. at 38-39.

the surname of respondent as she never acquired any right over it and so as to avoid a misimpression that she remains the wife of respondent.

x x x x

SO ORDERED.⁶

The RTC was of the view that the parties married each other for convenience only. Giving credence to the testimony of Albios, it stated that she contracted Fringer to enter into a marriage to enable her to acquire American citizenship; that in consideration thereof, she agreed to pay him the sum of \$2,000.00; that after the ceremony, the parties went their separate ways; that Fringer returned to the United States and never again communicated with her; and that, in turn, she did not pay him the \$2,000.00 because he never processed her petition for citizenship. The RTC, thus, ruled that when marriage was entered into for a purpose other than the establishment of a conjugal and family life, such was a farce and should not be recognized from its inception.

Petitioner Republic of the Philippines, represented by the Office of the Solicitor General (*OSG*), filed a motion for reconsideration. The RTC issued the Order,⁷ dated February 5, 2009, denying the motion for want of merit. It explained that the marriage was declared void because the parties failed to freely give their consent to the marriage as they had no intention to be legally bound by it and used it only as a means to acquire American citizenship in consideration of \$2,000.00.

Not in conformity, the OSG filed an appeal before the CA.

Ruling of the CA

In its assailed decision, dated September 29, 2011, the CA affirmed the RTC ruling which found that the essential requisite of consent was lacking. The CA stated that the parties clearly did not understand the nature and consequence of getting married and that their case was similar to a marriage in jest. It further explained that the parties never intended to enter into the marriage contract and never intended to live as husband and wife or build a family. It concluded that their purpose was primarily for personal gain, that is, for Albios to obtain foreign citizenship, and for Fringer, the consideration of \$2,000.00.

⁶ Id. at 39.

⁷ Id. at 48-49.

Hence, this petition.

Assignment of Error

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT HELD THAT A MARRIAGE CONTRACTED FOR THE PURPOSE OF OBTAINING FOREIGN CITIZENSHIP WAS DONE IN JEST, HENCE, LACKING IN THE ESSENTIAL ELEMENT OF CONSENT.⁸

The OSG argues that albeit the intention was for Albios to acquire American citizenship and for Fringer to be paid \$2,000.00, both parties freely gave their consent to the marriage, as they knowingly and willingly entered into that marriage and knew the benefits and consequences of being bound by it. According to the OSG, consent should be distinguished from motive, the latter being inconsequential to the validity of marriage.

The OSG also argues that the present case does not fall within the concept of a marriage in jest. The parties here intentionally consented to enter into a real and valid marriage, for if it were otherwise, the purpose of Albios to acquire American citizenship would be rendered futile.

On October 29, 2012, Albios filed her Comment⁹ to the petition, reiterating her stand that her marriage was similar to a marriage by way of jest and, therefore, void from the beginning.

On March 22, 2013, the OSG filed its Reply¹⁰ reiterating its arguments in its petition for review on certiorari.

Ruling of the Court

The resolution of this case hinges on this sole question of law: Is a marriage, contracted for the sole purpose of acquiring American citizenship in consideration of \$2,000.00, void *ab initio* on the ground of lack of consent?

The Court resolves in the negative.

⁸ Id. at 13.

⁹ Id. at 61-71.

¹⁰ Id. at 89-95.

Before the Court delves into its ruling, It shall first examine the phenomenon of marriage fraud for the purposes of immigration.

Marriage Fraud in Immigration

The institution of marriage carries with it concomitant benefits. This has led to the development of marriage fraud for the sole purpose of availing of particular benefits. In the United States, marriages where a couple marries only to achieve a particular purpose or acquire specific benefits, have been referred to as “limited purpose” marriages.¹¹ A common limited purpose marriage is one entered into solely for the legitimization of a child.¹² Another, which is the subject of the present case, is for immigration purposes. Immigration law is usually concerned with the intention of the couple at the time of their marriage,¹³ and it attempts to filter out those who use marriage solely to achieve immigration status.¹⁴

In 1975, the seminal case of *Bark v. Immigration and Naturalization Service*,¹⁵ established the principal test for determining the presence of marriage fraud in immigration cases. It ruled that a “marriage is a sham if the bride and groom did not intend to establish a life together at the time they were married.” This standard was modified with the passage of the Immigration Marriage Fraud Amendment of 1986 (*IMFA*), which now requires the couple to instead demonstrate that the marriage was *not* “entered into for the purpose of evading the immigration laws of the United States.” The focus, thus, shifted from determining the intention to establish a life together, to determining the intention of evading immigration laws.¹⁶ It must be noted, however, that this standard is used purely for immigration

¹¹ Abrams, Kerry. *Marriage Fraud*. 100 Cal. L. Rev. 1 (2012); http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000956. *Lutwak v. United States*, 344 U.S. 604, 612-613 (U.S. 1953).

¹² Abrams, Kerry. *Marriage Fraud*. 100 Cal. L. Rev. 1 (2012); http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000956; citing *Schibi v. Schibi*, 69 A.2d 831 (Conn. 1949) (denying annulment where parties married only to give a name to a prospective child); *Bishop v. Bishop*, 308 N.Y.S.2d 998 (Sup. Ct. 1970); *Erickson v. Erickson*, 48 N.Y.S.2d 588 (Sup. Ct. 1944) (holding similarly to *Schibi*); *Delfino v. Delfino*, 35 N.Y.S.2d 693 (Sup. Ct. 1942) (denying annulment where purpose of marriage was to protect the girl’s name and there was an understanding that the parties would not live together as man and wife); *Bove v. Pinciotti*, 46 Pa. D. & C. 159 (1942); *Campbell v. Moore*, 189 S.E.2d 497 (S.C.1939) (refusing an annulment where parties entered marriage for the purpose of legitimizing a child); *Chander v. Chander*, No. 2937-98-4, 1999 WL 1129721 (Va. Ct. App. June 22, 1999) (denying annulment where wife married husband to get his pension with no intention to consummate marriage because husband knew that was the purpose of the marriage).

¹³ Abrams, Kerry. *Immigration Law and the Regulation of Marriage*; 91 Minn. L. Rev. 1625 (2007); http://www.minnesotalawreview.org/wp-content/uploads/2012/01/Abrams_Final.pdf; citing Immigration and Nationality Act (INA), § 237(a)(1)(G), 8 U.S.C. § 1227(a)(1)(G) (2000).

¹⁴ Abrams, Kerry. *Immigration Law and the Regulation of Marriage*; 91 Minn. L. Rev. 1625 (2007); http://www.minnesotalawreview.org/wp-content/uploads/2012/01/Abrams_Final.pdf; citing 132 CONG. REC. 27,012, 27,015 (1986) (statement of Rep McCollum) (promoting the Immigration Marriage Fraud Amendments of 1986).

¹⁵ 511 F.2d 1200, 1201 (9th Cir. 1975).

¹⁶ Abrams, Kerry. *Immigration Law and the Regulation of Marriage*; 91 Minn. L. Rev. 1625 (2007); http://www.minnesotalawreview.org/wp-content/uploads/2012/01/Abrams_Final.pdf.

purposes and, therefore, does not purport to rule on the legal validity or existence of a marriage.

The question that then arises is whether a marriage declared as a sham or fraudulent for the limited purpose of immigration is also legally void and inexistent. The early cases on limited purpose marriages in the United States made no definitive ruling. In 1946, the notable case of *United States v. Rubenstein*¹⁷ was promulgated, wherein in order to allow an alien to stay in the country, the parties had agreed to marry but not to live together and to obtain a divorce within six months. The Court, through Judge Learned Hand, ruled that a marriage to convert temporary into permanent permission to stay in the country was not a marriage, there being no consent, to wit:

x x x But, that aside, Spitz and Sandler *were never married at all*. Mutual consent is necessary to every contract; and no matter what forms or ceremonies the parties may go through indicating the contrary, they do not contract if they do not in fact assent, which may always be proved. x x x Marriage is no exception to this rule: *a marriage in jest is not a marriage at all*. x x x It is quite true that a marriage without subsequent consummation will be valid; but *if the spouses agree to a marriage only for the sake of representing it as such to the outside world and with the understanding that they will put an end to it as soon as it has served its purpose to deceive, they have never really agreed to be married at all. They must assent to enter into the relation as it is ordinarily understood, and it is not ordinarily understood as merely a pretence, or cover, to deceive others*.¹⁸

(Italics supplied)

On the other end of the spectrum is the 1969 case of *Mpiliris v. Hellenic Lines*,¹⁹ which declared as *valid* a marriage entered into solely for the husband to gain entry to the United States, stating that a valid marriage could not be avoided “merely because the marriage was entered into for a limited purpose.”²⁰ The 1980 immigration case of *Matter of McKee*,²¹ further recognized that a fraudulent or sham marriage was intrinsically different from a nonsubsisting one.

¹⁷ 151 F.2d 915 (2d Cir. 1945).

¹⁸ *United States v. Rubenstein*, 151 F.2d 915 (2d Cir. 1945).

¹⁹ *Mpiliris v. Hellenic Lines, Ltd.*, 323 F. Supp. 865 (S.D. Tex. 1969), *aff'd*, 440 F.2d 1163 (5th Cir. 1971).

²⁰ Abrams, Kerry. *Marriage Fraud*. 100 Cal. L. Rev. 1 (2012); http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000956; citing *Mpiliris v. Hellenic Lines, Ltd.*, 323 F. Supp. 865 (S.D. Tex. 1969), *aff'd*, 440 F.2d 1163 (5th Cir. 1971).

²¹ *Matter of McKee*, 17 I. & N. Dec. 332, 333 (B.I.A. 1980).

Nullifying these limited purpose marriages for lack of consent has, therefore, been recognized as problematic. The problem being that in order to obtain an immigration benefit, a legal marriage is first necessary.²² At present, United States courts have generally denied annulments involving “limited purpose” marriages where a couple married only to achieve a particular purpose, and have upheld such marriages as *valid*.²³

The Court now turns to the case at hand.

Respondent’s marriage not void

In declaring the respondent’s marriage void, the RTC ruled that when a marriage was entered into for a purpose other than the establishment of a conjugal and family life, such was a farce and should not be recognized from its inception. In its resolution denying the OSG’s motion for reconsideration, the RTC went on to explain that the marriage was declared void because the parties failed to freely give their consent to the marriage as they had no intention to be legally bound by it and used it only as a means for the respondent to acquire American citizenship.

Agreeing with the RTC, the CA ruled that the essential requisite of consent was lacking. It held that the parties clearly did not understand the nature and consequence of getting married. As in the *Rubenstein* case, the CA found the marriage to be similar to a marriage in jest considering that the parties only entered into the marriage for the acquisition of American citizenship in exchange of \$2,000.00. They never intended to enter into a marriage contract and never intended to live as husband and wife or build a family.

The CA’s assailed decision was, therefore, grounded on the parties’ supposed lack of consent. Under Article 2 of the Family Code, consent is an essential requisite of marriage. Article 4 of the same Code provides that the absence of any essential requisite shall render a marriage void *ab initio*.

Under said Article 2, for consent to be valid, it must be (1) freely given and (2) made in the presence of a solemnizing officer. A “freely given” consent requires that the contracting parties willingly and deliberately enter into the marriage. Consent must be *real* in the sense that it is not vitiated nor rendered defective by any of the vices of consent under Articles 45 and 46 of the Family Code, such as fraud, force, intimidation, and undue

²² Lynn D. Wardle and Laurence C. Nolan, *Family Law in the USA*, (The Netherlands: Kluwer Law International, 2011) p. 86.

²³ Abrams, Kerry. *Marriage Fraud*. 100 Cal. L. Rev. 1 (2012); http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000956.

influence.²⁴ Consent must also be *conscious or intelligent*, in that the parties must be capable of intelligently understanding the nature of, and both the beneficial or unfavorable consequences of their act.²⁵ Their understanding should not be affected by insanity, intoxication, drugs, or hypnotism.²⁶

Based on the above, consent was not lacking between Albios and Fringer. In fact, there was *real* consent because it was not vitiated nor rendered defective by any vice of consent. Their consent was also *conscious and intelligent* as they understood the nature and the beneficial and inconvenient consequences of their marriage, as nothing impaired their ability to do so. That their consent was freely given is best evidenced by their conscious purpose of acquiring American citizenship through marriage. Such plainly demonstrates that they willingly and deliberately contracted the marriage. There was a clear intention to enter into a real and valid marriage so as to fully comply with the requirements of an application for citizenship. There was a full and complete understanding of the legal tie that would be created between them, since it was that precise legal tie which was necessary to accomplish their goal.

In ruling that Albios' marriage was void for lack of consent, the CA characterized such as akin to a marriage by way of jest. A marriage in jest is a pretended marriage, legal in form but entered into as a joke, with no real intention of entering into the actual marriage status, and with a clear understanding that the parties would not be bound. The ceremony is not followed by any conduct indicating a purpose to enter into such a relation.²⁷ It is a pretended marriage not intended to be real and with no intention to create any legal ties whatsoever, hence, the absence of any genuine consent. Marriages in jest are void *ab initio*, not for vitiated, defective, or unintelligent consent, but for a complete absence of consent. There is no genuine consent because the parties have absolutely no intention of being bound in any way or for any purpose.

The respondent's marriage is not at all analogous to a marriage in jest. Albios and Fringer had an undeniable intention to be bound in order to create the very bond necessary to allow the respondent to acquire American citizenship. Only a genuine consent to be married would allow them to further their objective, considering that only a valid marriage can properly support an application for citizenship. There was, thus, an apparent intention

²⁴ Alicia V. Sempio-Diy, *Handbook on the Family Code of the Philippines*, (Quezon City, Philippines: Joer Printing Services, 2005), p. 4.

²⁵ Melencio S. Sta. Maria, Jr., *Persons and Family Relations Law*, (Quezon City, Philippines: Rex Printing Company, Inc., 2010), Fifth Edition, p. 121.

²⁶ Arturo M. Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, (Manila, Philippines: Central Book Supply, Inc., 2004), Volume I, p. 231.

²⁷ Arturo M. Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, (Manila, Philippines: Central Book Supply, Inc., 2004), Volume I, p. 231; citing *McClurg v. Terry*, 21 N.J. 225.

to enter into the actual marriage status and to create a legal tie, albeit for a limited purpose. Genuine consent was, therefore, clearly present.

The avowed purpose of marriage under Article 1 of the Family Code is for the couple to establish a conjugal and family life. The possibility that the parties in a marriage might have no real intention to establish a life together is, however, insufficient to nullify a marriage freely entered into in accordance with law. The same Article 1 provides that the nature, consequences, and incidents of marriage are governed by law and not subject to stipulation. A marriage may, thus, only be declared void or voidable under the grounds provided by law. There is no law that declares a marriage void if it is entered into for purposes other than what the Constitution or law declares, such as the acquisition of foreign citizenship. Therefore, so long as all the essential and formal requisites prescribed by law are present, and it is not void or voidable under the grounds provided by law, it shall be declared valid.²⁸

Motives for entering into a marriage are varied and complex. The State does not and cannot dictate on the kind of life that a couple chooses to lead. Any attempt to regulate their lifestyle would go into the realm of their right to privacy and would raise serious constitutional questions.²⁹ The right to marital privacy allows married couples to structure their marriages in almost any way they see fit, to live together or live apart, to have children or no children, to love one another or not, and so on.³⁰ Thus, marriages entered into for other purposes, limited or otherwise, such as convenience, companionship, money, status, and title, provided that they comply with all the legal requisites,³¹ are equally valid. Love, though the ideal consideration in a marriage contract, is not the only valid cause for marriage. Other considerations, not precluded by law, may validly support a marriage.

Although the Court views with disdain the respondent's attempt to utilize marriage for dishonest purposes, It cannot declare the marriage void. Hence, though the respondent's marriage may be considered a sham or fraudulent for the purposes of immigration, it is not void *ab initio* and continues to be valid and subsisting.

Neither can their marriage be considered voidable on the ground of fraud under Article 45 (3) of the Family Code. Only the circumstances listed under Article 46 of the same Code may constitute fraud, namely, (1) non-

²⁸ Article 4, Family Code.

²⁹ *Bark v. Immigration & Naturalization Service*, 511 F.2d 1200, 1201 (9th Cir. 1975).

³⁰ Abrams, Kerry. *Immigration Law and the Regulation of Marriage*; 91 Minn. L. Rev. 1625 (2007); http://www.minnesotalawreview.org/wp-content/uploads/2012/01/Abrams_Final.pdf; citing *McGuire v. McGuire*, 59 N.W.2d 336, 337 (Neb. 1953). *Griswold v. Connecticut*, 381 U.S. 479, 485–86 (1965).

³¹ Article 4, Family Code.

disclosure of a previous conviction involving moral turpitude; (2) concealment by the wife of a pregnancy by another man; (3) concealment of a sexually transmitted disease; and (4) concealment of drug addiction, alcoholism, or homosexuality. No other misrepresentation or deceit shall constitute fraud as a ground for an action to annul a marriage. Entering into a marriage for the sole purpose of evading immigration laws does not qualify under any of the listed circumstances. Furthermore, under Article 47 (3), the ground of fraud may only be brought by the injured or innocent party. In the present case, there is no injured party because Albios and Fringer both conspired to enter into the sham marriage.

Albios has indeed made a mockery of the sacred institution of marriage. Allowing her marriage with Fringer to be declared void would only further trivialize this inviolable institution. The Court cannot declare such a marriage void in the event the parties fail to qualify for immigration benefits, after they have availed of its benefits, or simply have no further use for it. These unscrupulous individuals cannot be allowed to use the courts as instruments in their fraudulent schemes. Albios already misused a judicial institution to enter into a marriage of convenience; she should not be allowed to again abuse it to get herself out of an inconvenient situation.

No less than our Constitution declares that marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.³² It must, therefore, be safeguarded from the whims and caprices of the contracting parties. This Court cannot leave the impression that marriage may easily be entered into when it suits the needs of the parties, and just as easily nullified when no longer needed.


WHEREFORE, the petition is **GRANTED**. The September 29, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 95414 is **ANNULLED**, and Civil Case No. 1134-06 is **DISMISSED** for utter lack of merit.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

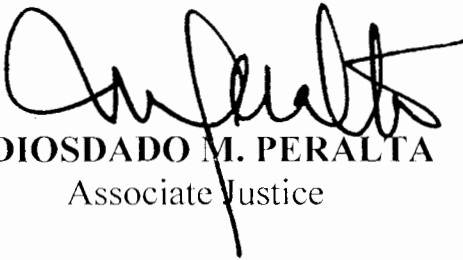
³² Const. (1987), Article XV, Section 2.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



TERESITA J. LEONARDO DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

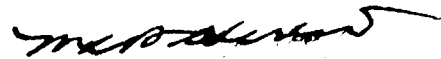
ATTESTATION

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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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