



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES, OF THE G.R. No. 189538

Petitioner, Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

-versus-

Promulgated:

MERLINDA L. OLAYBAR,
Respondent.

February 10, 2016

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DECISION

PERALTA, J.:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court are the Regional Trial Court¹ (RTC) Decision² dated May 5, 2009 and Order³ dated August 25, 2009 in SP. Proc. No. 16519-CEB. The assailed decision granted respondent Merlinda L. Olaybar's petition for cancellation of entries in the latter's marriage contract; while the assailed order denied the motion for reconsideration filed by petitioner Republic of the Philippines through the Office of the Solicitor General (OSG).

The facts of the case are as follows:

¹ Branch 6, Cebu City.

² Penned by Presiding Judge Ester M. Veloso; *rollo*, pp. 32-34.

³ *Rollo*, pp. 36-41.

Respondent requested from the National Statistics Office (*NSO*) a Certificate of No Marriage (*CENOMAR*) as one of the requirements for her marriage with her boyfriend of five years. Upon receipt thereof, she discovered that she was already married to a certain Ye Son Sune, a Korean National, on June 24, 2002, at the Office of the Municipal Trial Court in Cities (*MTCC*), Palace of Justice. She denied having contracted said marriage and claimed that she did not know the alleged husband; she did not appear before the solemnizing officer; and, that the signature appearing in the marriage certificate is not hers.⁴ She, thus, filed a *Petition for Cancellation of Entries in the Marriage Contract*, especially the entries in the wife portion thereof.⁵ Respondent impleaded the Local Civil Registrar of Cebu City, as well as her alleged husband, as parties to the case.

During trial, respondent testified on her behalf and explained that she could not have appeared before Judge Mamerto Califlores, the supposed solemnizing officer, at the time the marriage was allegedly celebrated, because she was then in Makati working as a medical distributor in Hansao Pharma. She completely denied having known the supposed husband, but she revealed that she recognized the named witnesses to the marriage as she had met them while she was working as a receptionist in Tadel's Pension House. She believed that her name was used by a certain Johnny Singh, who owned a travel agency, whom she gave her personal circumstances in order for her to obtain a passport.⁶ Respondent also presented as witness a certain Eufrocina Natinga, an employee of *MTCC*, Branch 1, who confirmed that the marriage of Ye Son Sune was indeed celebrated in their office, but claimed that the alleged wife who appeared was definitely not respondent.⁷ Lastly, a document examiner testified that the signature appearing in the marriage contract was forged.⁸

On May 5, 2009, the RTC rendered the assailed Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered, the petition is granted in favor of the petitioner, Merlinda L. Olaybar. The Local Civil Registrar of Cebu City is directed to cancel all the entries in the WIFE portion of the alleged marriage contract of the petitioner and respondent Ye Son Sune.

SO ORDERED.⁹

⁴ *Id.* at 32.

⁵ *Id.*

⁶ *Id.* at 33.

⁷ *Id.*

⁸ *Id.* at 33-34.

⁹ *Id.* at 34.

Finding that the signature appearing in the subject marriage contract was not that of respondent, the court found basis in granting the latter's prayer to straighten her record and rectify the terrible mistake.¹⁰

Petitioner, however, moved for the reconsideration of the assailed Decision on the grounds that: (1) there was no clerical spelling, typographical and other innocuous errors in the marriage contract for it to fall within the provisions of Rule 108 of the Rules of Court; and (2) granting the cancellation of all the entries in the wife portion of the alleged marriage contract is, in effect, declaring the marriage void *ab initio*.¹¹

In an Order dated August 25, 2009, the RTC denied petitioner's motion for reconsideration couched in this wise:

WHEREFORE, the court hereby denies the Motion for Reconsideration filed by the Republic of the Philippines. Furnish copies of this order to the Office of the Solicitor General, the petitioner's counsel, and all concerned government agencies.

SO ORDERED.¹²

Contrary to petitioner's stand, the RTC held that it had jurisdiction to take cognizance of cases for correction of entries even on substantial errors under Rule 108 of the Rules of Court being the appropriate adversary proceeding required. Considering that respondent's identity was used by an unknown person to contract marriage with a Korean national, it would not be feasible for respondent to institute an action for declaration of nullity of marriage since it is not one of the void marriages under Articles 35 and 36 of the Family Code.¹³

Petitioner now comes before the Court in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal of the assailed RTC Decision and Order based on the following grounds:

I.

RULE 108 OF THE REVISED RULES OF COURT APPLIES ONLY WHEN THERE ARE ERRORS IN THE ENTRIES SOUGHT TO BE CANCELLED OR CORRECTED.

¹⁰ *Id.*

¹¹ *Id.* at 36.

¹² *Id.* at 41. (Emphasis in the original)

¹³ *Id.* at 40-41.

II.

GRANTING THE CANCELLATION OF “ALL THE ENTRIES IN THE WIFE PORTION OF THE ALLEGED MARRIAGE CONTRACT,” IS IN EFFECT DECLARING THE MARRIAGE VOID *AB INITIO*.¹⁴

Petitioner claims that there are no errors in the entries sought to be cancelled or corrected, because the entries made in the certificate of marriage are the ones provided by the person who appeared and represented herself as Merlinda L. Olaybar and are, in fact, the latter’s personal circumstances.¹⁵ In directing the cancellation of the entries in the wife portion of the certificate of marriage, the RTC, in effect, declared the marriage null and void *ab initio*.¹⁶ Thus, the petition instituted by respondent is actually a petition for declaration of nullity of marriage in the guise of a Rule 108 proceeding.¹⁷

We deny the petition.

At the outset, it is necessary to stress that a direct recourse to this Court from the decisions and final orders of the RTC may be taken where only questions of law are raised or involved. There is a question of law when the doubt arises as to what the law is on a certain state of facts, which does not call for the examination of the probative value of the evidence of the parties.¹⁸ Here, the issue raised by petitioner is whether or not the cancellation of entries in the marriage contract which, in effect, nullifies the marriage may be undertaken in a Rule 108 proceeding. Verily, petitioner raised a pure question of law.

Rule 108 of the Rules of Court sets forth the rules on cancellation or correction of entries in the civil registry, to wit:

SEC. 1. *Who may file petition.* – Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the Regional Trial Court of the province where the corresponding civil registry is located.

SEC. 2. *Entries subject to cancellation or correction.* – Upon good and valid grounds, the following entries in the civil register may be

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 21.

¹⁶ *Id.* at 23.

¹⁷ *Id.* at 24.

¹⁸ *Republic v. Sagun*, G.R. No. 187567, February 15, 2012, 666 SCRA 321, 329.

cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

SEC. 3. *Parties.* – When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

SEC. 4. *Notice and Publication.* – Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

SEC. 5. *Opposition.* – The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.

SEC. 6. *Expediting proceedings.* – The court in which the proceedings is brought may make orders expediting the proceedings, and may also grant preliminary injunction for the preservation of the rights of the parties pending such proceedings.

SEC. 7. *Order.* – After hearing, the court may either dismiss the petition or issue an order granting the cancellation or correction prayed for. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in his record.

Rule 108 of the Rules of Court provides the procedure for cancellation or correction of entries in the civil registry. The proceedings may either be summary or adversary. If the correction is clerical, then the procedure to be adopted is summary. If the rectification affects the civil status, citizenship or nationality of a party, it is deemed substantial, and the procedure to be adopted is adversary. Since the promulgation of *Republic v. Valencia*¹⁹ in 1986, the Court has repeatedly ruled that “even substantial errors in a civil registry may be corrected through a petition filed under Rule 108, with the true facts established and the parties aggrieved by the error availing themselves of the appropriate adversarial proceeding.”²⁰ An appropriate adversary suit or proceeding is one where the trial court has conducted

¹⁹ 225 Phil. 408 (1986).

²⁰ *Barco v. Court of Appeals*, 465 Phil. 39, 58 (2004).

proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered.²¹

It is true that in special proceedings, formal pleadings and a hearing may be dispensed with, and the remedy [is] granted upon mere application or motion. However, a special proceeding is not always summary. The procedure laid down in Rule 108 is not a summary proceeding *per se*. It requires publication of the petition; it mandates the inclusion as parties of all persons who may claim interest which would be affected by the cancellation or correction; it also requires the civil registrar and any person in interest to file their opposition, if any; and it states that although the court may make orders expediting the proceedings, it is after hearing that the court shall either dismiss the petition or issue an order granting the same. Thus, as long as the procedural requirements in Rule 108 are followed, it is the appropriate adversary proceeding to effect substantial corrections and changes in entries of the civil register.²²

In this case, the entries made in the wife portion of the certificate of marriage are admittedly the personal circumstances of respondent. The latter, however, claims that her signature was forged and she was not the one who contracted marriage with the purported husband. In other words, she claims that no such marriage was entered into or if there was, she was not the one who entered into such contract. It must be recalled that when respondent tried to obtain a CENOMAR from the NSO, it appeared that she was married to a certain Ye Son Sune. She then sought the cancellation of entries in the wife portion of the marriage certificate.

In filing the petition for correction of entry under Rule 108, respondent made the Local Civil Registrar of Cebu City, as well as her alleged husband Ye Son Sune, as parties-respondents. It is likewise undisputed that the procedural requirements set forth in Rule 108 were complied with. The Office of the Solicitor General was likewise notified of the petition which in turn authorized the Office of the City Prosecutor to participate in the proceedings. More importantly, trial was conducted where respondent herself, the stenographer of the court where the alleged marriage was conducted, as well as a document examiner, testified. Several documents were also considered as evidence. With the testimonies and other evidence presented, the trial court found that the signature appearing in the

²¹ *Republic of the Philippines v. Lim*, 464 Phil. 151, 157 (2004); *Eleosida v. Local Civil Registrar of Quezon City*, 431 Phil. 612, 619 (2002).

²² *Lee v. Court of Appeals*, 419 Phil. 392, 410 (2001).

subject marriage certificate was different from respondent's signature appearing in some of her government issued identification cards.²³ The court thus made a categorical conclusion that respondent's signature in the marriage certificate was not hers and, therefore, was forged. Clearly, it was established that, as she claimed in her petition, no such marriage was celebrated.

Indeed the Court made a pronouncement in the recent case of *Minoru Fujiki v. Maria Paz Galela Marinay, Shinichi Maekara, Local Civil Registrar of Quezon City, and the Administrator and Civil Registrar General of the National Statistics Office*²⁴ that:

To be sure, a petition for correction or cancellation of an entry in the civil registry cannot substitute for an action to invalidate a marriage. A direct action is necessary to prevent circumvention of the substantive and procedural safeguards of marriage under the Family Code, A.M. No. 02-11-10-SC and other related laws. Among these safeguards are the requirement of proving the limited grounds for the dissolution of marriage, support *pendente lite* of the spouses and children, the liquidation, partition and distribution of the properties of the spouses and the investigation of the public prosecutor to determine collusion. A direct action for declaration of nullity or annulment of marriage is also necessary to prevent circumvention of the jurisdiction of the Family Courts under the Family Courts Act of 1997 (Republic Act No. 8369), as a petition for cancellation or correction of entries in the civil registry may be filed in the Regional Trial Court where the corresponding civil registry is located. In other words, a Filipino citizen cannot dissolve his marriage by the mere expedient of changing his entry of marriage in the civil registry.

Aside from the certificate of marriage, no such evidence was presented to show the existence of marriage. Rather, respondent showed by overwhelming evidence that no marriage was entered into and that she was not even aware of such existence. The testimonial and documentary evidence clearly established that the only "evidence" of marriage which is the marriage certificate was a forgery. While we maintain that Rule 108 cannot be availed of to determine the validity of marriage, we cannot nullify the proceedings before the trial court where all the parties had been given the opportunity to contest the allegations of respondent; the procedures were followed, and all the evidence of the parties had already been admitted and examined. Respondent indeed sought, not the nullification of marriage as there was no marriage to speak of, but the correction of the record of such

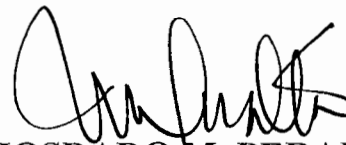
²³ Rollo, pp. 33-34.

²⁴ G.R. No. 196049, June 26, 2013.

marriage to reflect the truth as set forth by the evidence. Otherwise stated, in allowing the correction of the subject certificate of marriage by cancelling the wife portion thereof, the trial court did not, in any way, declare the marriage void as there was no marriage to speak of.

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. The Regional Trial Court Decision dated May 5, 2009 and Order dated August 25, 2009 in SP. Proc. No. 16519-CEB, are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



ROBERTO A. ABAD
Associate Justice




JOSE CATRAL MENDOZA
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
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