110

Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

RENATO A. CASTILLO,
Petitioner,

- versus -

LEA P. DE LEON CASTILLO,
Respondent.

G.R. No. 189607

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

APR 18 2016

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DECISION

SERENO, *CJ:*

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Court of Appeals (CA) Decision[1] in CA-G.R. CV No. 90153 and the Resolution[2] that affirmed the same. The CA reversed the Decision[3] dated 23 March 2007 issued by the Regional Trial Court (RTC) of Quezon City, Branch 84.

The RTC had granted the Petition for Declaration of Nullity of Marriage between the parties on the ground that respondent had a previous valid marriage before she married petitioner. The CA believes on the other hand, that respondent was not prevented from contracting a second marriage if the first one was an absolutely nullity, and for this purpose she did not have to await a final decree of nullity of the first marriage.

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[1] Dated 20 April 2009; *Rollo,* pp. 55-68. Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Martin S. Villarama, Jr. (now a retired member of this Court) and Jose C. Reyes, Jr. concurring.
[2] Dated 16 September 2009; Id. at 69-70.
[3] Id. at 127-136. Penned by Presiding Judge Luisito G. Cortez.

The only issue that must be resolved by the Court is whether the CA was correct in holding thus and consequentially reversing the RTC's declaration of nullity of the second marriage.

FACTUAL ANTECEDENTS

On 25 May 1972, respondent Lea P. De Leon Castillo (Lea) married Benjamin Bautista (Bautista). On 6 January 1979, respondent married herein petitioner Renato A. Castillo (Renato).

On 28 May 2001, Renato filed before the RTC a Petition for Declaration of Nullity of Marriage,[4] praying that his marriage to Lea be declared void due to her subsisting marriage to Bautista and her psychological incapacity under Article 36 of the Family Code. The CA states in its Decision that petitioner did not pursue the ground of psychological incapacity in the RTC. The reason for this finding by the CA while unclear, is irrelevant in this Petition.

Respondent opposed the Petition, and contended among others that her marriage to Bautista was null and void as they had not secured any license therefor, and neither of them was a member of the denomination to which the solemnizing officer belonged.[5]

On 3 January 2002, respondent filed an action to declare her first marriage to Baustista void. On 22 January 2003, the Regional Trial Court of Parañaque City, Branch 260 rendered its Decision[6] declaring that Lea's first marriage to Bautista was indeed null and void *ab initio*. Thereafter, the same court issued a Certificate of Finality saying that the Decision dated 22 January 2003 had become final and executory.[7]

On 12 August 2004, respondent filed a Demurrer to Evidence[8] claiming that the proof adduced by petitioner was insufficient to warrant a declaration of nullity of their marriage on the ground that it was bigamous. In his Opposition,[9] petitioner countered that whether or not the first marriage of respondent was valid, and regardless of the fact that she had belatedly managed to obtain a judicial declaration of nullity, she still could not deny that at the time she entered into marriage with him, her previous marriage was valid and subsisting. The RTC thereafter denied respondent's demurrer in its Order[10] dated 8 March 2005.

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[4] Id. at 76-81.
[5] Id. at 58.
[6] Id. at 184-186. Penned by Judge Helen Bautista-Ricafort.
[7] Id. at 183.
[8] Id. at 247-250.
[9] Id. at 256-269.
[10] Id. at 277-278. Penned by acting Presiding Judge Natividad Giron Dizon.

In a Decision[11] dated 23 March 2007, the RTC declared the marriage between petitioner and respondent null and void *ab initio* on the ground that it was a bigamous marriage under Article 41 of the Family Code.[12] The dispositive portion reads:

> WHEREFORE, in the light of the foregoing considerations, the Court hereby declares the marriage between RENATO A. CASTILLO and LEA P. DE LEON-CASTILLO contracted on January 6, 1979, at the Mary the Queen Parish Church, San Juan, Metro Manila, is hereby declared NULL AND VOID AB INITIO based on bigamous marriage, under Article 41 of the Family Code.[13]

The RTC said that the fact that Lea's marriage to Bautista was subsisting when she married Renato on 6 January 1979, makes her marriage to Renato bigamous, thus rendering it void *ab initio*. The lower court dismissed Lea's argument that she need not obtain a judicial decree of nullity and could presume the nullity of a prior subsisting marriage. The RTC stressed that so long as no judicial declaration exists, the prior marriage is valid and existing. Lastly, it also said that even if respondent eventually had her first marriage judicially declared void, the fact remains that the first and second marriage were subsisting before the first marriage was annulled, since Lea failed to obtain a judicial decree of nullity for her first marriage to Bautista before contracting her second marriage with Renato.[14]

Petitioner moved for reconsideration insofar as the distribution of their properties were concerned.[15] His motion, however, was denied by the RTC in its Order[16] dated 6 September 2007. Thereafter, both petitioner[17] and respondent[18] filed their respective Notices of Appeal.

In a Decision[19] dated 20 April 2009, the CA reversed and set aside the RTC's Decision and Order and upheld the validity of the parties' marriage. In reversing the RTC, the CA said that since Lea's marriages were solemnized in 1972 and in 1979, or prior to the effectivity of the Family Code on 3 August 1988, the Civil Code is the applicable law since it is the law in effect at the time the marriages were celebrated, and not the Family Code.[20] Furthermore, the CA ruled that the Civil Code does not state that a judicial decree is necessary in order to establish the nullity of a marriage.[21]

Petitioner's motion for reconsideration of the CA's Decision was likewise denied in the questioned CA Resolution[22] dated 16 September 2009.

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[11] Id. at 127-136. Penned by Presiding Judge Luisito G. Cortez.
[12] Id. at 135.
[13] Id.
[14] Id. at 133-136.
[15] Id. at 137-152.
[16] Id. at 160-162.
[17] Records, pp. 512-513
[18] Id. at 492.
[19] Supra note 1.
[20] *Rollo*, p. 63.
[21] Id. at 63-64.
[22] Id. at 69-70.

Hence, this Petition for Review on *Certiorari.*

Respondent filed her Comment[23] praying that the CA Decision finding her marriage to petitioner valid be affirmed *in toto,* and that all properties acquired by the spouses during their marriage be declared conjugal. In his Reply to the Comment,[24] petitioner reiterated the allegations in his Petition.

OUR RULING

We deny the Petition.

The validity of a marriage and all its incidents must be determined in accordance with the law in effect at the time of its celebration.[25] In this case, the law in force at the time Lea contracted both marriages was the Civil Code. The children of the parties were also born while the Civil Code was in effect *i.e.* in 1979, 1981, and 1985. Hence, the Court must resolve this case using the provisions under the Civil Code on void marriages, in particular, Articles 80,[26] 81,[27] 82,[28] and 83 (first paragraph);[29] and those on voidable marriages are Articles 83 (second paragraph),[30] 85[31] and 86.[32]

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[23] Id. at 245-248.
[24] Id. at 253-260.
[25] *Niñal v. Bayadog*, 384 Phil. 661 (2004).
[26] Art. 80. The following marriages shall be void from the beginning:
(1) Those contracted under the ages of sixteen and fourteen years by the male and female respectively, even with the consent of the parents;
(2) Those solemnized by any person not legally authorized to perform marriages;
(3) Those solemnized without a marriage license, save marriages of exceptional character;
(4) Bigamous or polygamous marriages not falling under article 83, number 2;
(5) Incestuous marriages mentioned in article 81;
(6) Those where one or both contracting parties have been found guilty of the killing of the spouse of either of them;
(7) Those between stepbrothers and stepsisters and other marriages specified in article 82. (n)
[27] Art. 81. Marriages between the following are incestuous and void from their performance, whether the relationship between the parties be legitimate or illegitimate:
(1) Between ascendants and descendants of any degree;
(2) Between brothers and sisters, whether of the full or half blood;
(3) Between collateral relatives by blood within the fourth civil degree. (28a)
[28] Art. 82. The following marriages shall also be void from the beginning:
(1) Between stepfathers and stepdaughters, and stepmothers and stepsons;
(2) Between the adopting father or mother and the adopted, between the latter and the surviving spouse of the former, and between the former and the surviving spouse of the latter;
(3) Between the legitimate children of the adopter and the adopted. (28a)
[29] Art. 83. Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:
(1) The first marriage was annulled or dissolved;
(2) xxxx (29a)
[30] Art. 83. Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:
(1) xxxx; or
(2) The first spouse had been absent for seven consecutive years at the time of the second marriage without the spouse present having news of the absentee being alive, or if the absentee, though he has been absent for less than seven years, is generally considered as dead and believed to be so by the spouse present at the time of contracting such subsequent marriage, or if the absentee is presumed dead according to articles 390 and 391. The marriage so contracted shall be valid in any of the three cases until declared null and void by a competent court. (29a)
[31] Art. 85. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

Under the Civil Code, a void marriage differs from a voidable marriage in the following ways: (1) a void marriage is nonexistent – *i.e.*, there was no marriage from the beginning – while in a voidable marriage, the marriage is valid until annulled by a competent court; (2) a void marriage cannot be ratified, while a voidable marriage can be ratified by cohabitation; (3) being nonexistent, a void marriage can be collaterally attacked, while a voidable marriage cannot be collaterally attacked; (4) in a void marriage, there is no conjugal partnership and the offspring are natural children by legal fiction, while in voidable marriage there is conjugal partnership and the children conceived before the decree of annulment are considered legitimate; and (5) "in a void marriage no judicial decree to establish the invalidity is necessary," while in a voidable marriage there must be a judicial decree.[33]

Emphasizing the fifth difference, this Court has held in the cases of *People v. Mendoza,*[34] *People v. Aragon,*[35] and *Odayat v. Amante,*[36] that the Civil Code contains no express provision on the necessity of a judicial declaration of nullity of a void marriage.[37]

In *Mendoza* (1954), appellant contracted three marriages in 1936, 1941, and 1949. The second marriage was contracted in the belief that the first wife was already dead, while the third marriage was contracted after the death of the second wife. The Court ruled that the first marriage was deemed valid until annulled, which made the second marriage null and void for being bigamous. Thus, the third marriage was valid, as the second marriage was

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cont.

(1) That the party in whose behalf it is sought to have the marriage annulled was between the ages of sixteen and twenty years, if male, or between the ages of fourteen and eighteen years, if female, and the marriage was solemnized without the consent of the parent, guardian or person having authority over the party, unless after attaining the ages of twenty or eighteen years, as the case may be, such party freely cohabited with the other and both lived together as husband and wife;

(2) In a subsequent marriage under article 83, number 2, that the former husband or wife believed to be dead was in fact living and the marriage with such former husband or wife was then in force;

(3) That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife;

(4) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as her husband or his wife, as the case may be;

(5) That the consent of either party was obtained by force or intimidation, unless the violence or threat having disappeared, such party afterwards freely cohabited with the other as her husband or his wife, as the case may be;

(6) That either party was, at the time of marriage, physically incapable of entering into the married state, and such incapacity continues, and appears to be incurable. (30a)

[32] Art. 86. Any of the following circumstances shall constitute fraud referred to in number 4 of the preceding article:

(1) Misrepresentation as to the identity of one of the contracting parties;

(2) Non-disclosure of the previous conviction of the other party of a crime involving moral turpitude, and the penalty imposed was imprisonment for two years or more;

(3) Concealment by the wife of the fact that at the time of the marriage, she was pregnant by a man other than her husband.

No other misrepresentation or deceit as to character, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage. (n)

[33] Eduardo P. Caguioa, *Comments and Cases on Civil Law (Civil Code of the Philippines),* Vol. 1, 1967 Third Edition, p.154.

[34] 95 Phil. 845 (1954).

[35] 100 Phil. 1033 (1957).

[36] 168 Phil. 1-5 (1977).

[37] *Niñal v. Bayadog*, 384 Phil. 661-675 (2000).

void from its performance, hence, nonexistent without the need of a judicial decree declaring it to be so.

This doctrine was reiterated in *Aragon* (1957), which involved substantially the same factual antecedents. In *Odayat* (1977), citing *Mendoza* and *Aragon,* the Court likewise ruled that no judicial decree was necessary to establish the invalidity of void marriages under Article 80 of the Civil Code.

It must be emphasized that the enactment of the Family Code rendered the rulings in *Odayat, Mendoza, and Aragon* inapplicable to marriages celebrated after 3 August 1988. A judicial declaration of absolute nullity of marriage is now expressly required where the nullity of a previous marriage is invoked for purposes of contracting a second marriage.[38] A second marriage contracted prior to the issuance of this declaration of nullity is thus considered bigamous and void.[39] In *Domingo v. Court of Appeals*, we explained the policy behind the institution of this requirement:

> Marriage, a sacrosanct institution, declared by the Constitution as an "inviolable social institution, is the foundation of the family;" as such, it "shall be protected by the State." In more explicit terms, the Family Code characterizes it as "a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life." So crucial are marriage and the family to the stability and peace of the nation that their "nature, consequences, and incidents are governed by law and not subject to stipulation." **As a matter of policy, therefore, the nullification of a marriage for the purpose of contracting another cannot be accomplished merely on the basis of the perception of both parties or of one that their union is so defective with respect to the essential requisites of a contract of marriage as to render it void ipso jure and with no legal effect — and nothing more. Were this so, this inviolable social institution would be reduced to a mockery and would rest on very shaky foundations indeed.** And the grounds for nullifying marriage would be as diverse and far-ranging as human ingenuity and fancy could conceive. **For such a socially significant institution, an official state pronouncement through the courts, and nothing less, will satisfy the exacting norms of society. Not only would such an open and public declaration by the courts definitively confirm the nullity of the contract of marriage, but the same would be easily verifiable through records accessible to everyone.**[40] (Emphases supplied)

However, as this Court clarified in *Apiag v. Cantero*[41] and *Ty v. Court of Appeals,*[42] the requirement of a judicial decree of nullity does not apply to marriages that were celebrated *before* the effectivity of the Family Code, particularly if the children of the parties were born while the Civil Code was

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[38] 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.
[39] *Mercado v. Tan*, 391 Phil. 809-827 (2000).
[40] G.R. No. 104818, 17 September 1993.
[41] 335 Phil. 511 (1997).
[42] 399 Phil. 647 (2000).

in force. In *Ty,* this Court clarified that those cases continue to be governed by *Odayat, Mendoza, and Aragon,* which embodied the then-prevailing rule:

> x x x. In Apiag v. Cantero, (1997) the first wife charged a municipal trial judge of immorality for entering into a second marriage. The judge claimed that his first marriage was void since he was merely forced into marrying his first wife whom he got pregnant. On the issue of nullity of the first marriage, we applied Odayat, Mendoza and Aragon. We held that since the second marriage took place and all the children thereunder were born before the promulgation of Wiegel and the effectivity of the Family Code, there is no need for a judicial declaration of nullity of the first marriage pursuant to prevailing jurisprudence at that time.
>
> Similarly, in the present case, the second marriage of private respondent was entered into in 1979, before Wiegel. At that time, the prevailing rule was found in Odayat, Mendoza and Aragon. The first marriage of private respondent being void for lack of license and consent, there was no need for judicial declaration of its nullity before he could contract a second marriage. In this case, therefore, we conclude that private respondent's second marriage to petitioner is valid.
>
> Moreover, we find that the provisions of the Family Code cannot be retroactively applied to the present case, for to do so would prejudice the vested rights of petitioner and of her children. As held in Jison v. Court of Appeals, the Family Code has retroactive effect unless there be impairment of vested rights. In the present case, that impairment of vested rights of petitioner and the children is patent x x x. (Citations omitted)

As earlier explained, the rule in *Odayat, Mendoza, and Aragon* is applicable to this case. The Court thus concludes that the subsequent marriage of Lea to Renato is valid in view of the invalidity of her first marriage to Bautista because of the absence of a marriage license. That there was no judicial declaration that the first marriage was void ab initio before the second marriage was contracted is immaterial as this is not a requirement under the Civil Code. Nonetheless, the subsequent Decision of the RTC of Parañaque City declaring the nullity of Lea's first marriage only serves to strengthen the conclusion that her subsequent marriage to Renato is valid.

In view of the foregoing, it is evident that the CA did not err in upholding the validity of the marriage between petitioner and respondent. Hence, we find no reason to disturb its ruling.

WHEREFORE, premises considered, the Petition is **DENIED**. The Court of Appeals Decision dated 20 April 2009 and Resolution dated 16 September 2009 in CA-G.R. CV No. 90153 are **AFFIRMED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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