

## EN BANC

[ G.R. No. 241036, January 26, 2021 ]

**LUCILA DAVID AND THE HEIRS OF RENE F. AGUAS, NAMELY:  
PRINCESS LUREN D. AGUAS, DANICA LANE D. AGUAS, SEAN  
PATRICK D. AGUAS, SEAN MICHAEL D. AGUAS AND SAMANTHA\*  
D. AGUAS, PETITIONERS, VS. CHERRY S. CALILUNG,  
RESPONDENT.**

### DECISION

**DELOS SANTOS, J.:**

This is a direct recourse to the Court, *via* a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, from the Orders dated November 24, 2017<sup>[2]</sup> and June 13, 2018<sup>[3]</sup> of the Regional Trial Court (RTC) of Angeles City, Branch 60, in Civil Case No. R-ANG-17-03316-CY, dismissing for lack of jurisdiction the Petition for Declaration of Nullity of Marriage of Rene F. Aguas (Rene) and Cherry S. Calilung (Cherry) filed by petitioners Lucila David (Lucila) and her children, namely: Princess Luren D. Aguas, Danica Lane D. Aguas, Sean Patrick D. Aguas, Sean Michael D. Aguas, and Samantha D. Aguas (collectively, the Aguas heirs).

#### The Facts

Lucila married Rene on November 24, 1981 in Mabalacat, Pampanga. They begot five children, the Aguas heirs.

On December 10, 2003, Rene filed a petition to declare his marriage with Lucila null and void on the ground of the latter's psychological incapacity.<sup>[4]</sup> In the said petition, Rene declared as conjugal properties a parcel of land located in Sunset Valley Estate, Angeles City, consisting of 500 square meters (sq m) and covered by Transfer Certificate of Title (TCT) No. 90811 in the names of Rene and Lucila,<sup>[5]</sup> and the merchandise inventory in Rene's pawnshop and ready-to-wear sales business.<sup>[6]</sup>

In a Decision<sup>[7]</sup> dated December 22, 2005 in Civil Case No. 11284, Rene and Lucila's marriage was judicially declared null and void on the ground of psychological incapacity (2005 Nullity Decision). The same Decision also ordered for the division of the conjugal properties consisting of the lot covered by TCT No. 90811 and the house standing thereon (Sunset Valley Estate), as well as for the support and delivery of presumptive legitimes of their common children. However, the 2005 Nullity Decision, as well as its certificate of finality was not registered with the Office of the Registry of Deeds of Angeles City, thus, no annotation of the said Decision on TCT No. 90811 was ever made. Also, actual partition of the Sunset Valley Estate had not been undertaken and the presumptive legitimes of the Aguas heirs were not delivered.

On October 7, 2006, Rene contracted a second marriage with Cherry.<sup>[8]</sup>

On November 17, 2015, Rene died intestate.

On May 24, 2017, Cherry filed a petition for the settlement of the intestate estate of Rene docketed as Special Proceeding Case No. R-ANG-17-01449-SP entitled, "*In the Matter of the Petition for Letters of Administration and Settlement of Intestate Estate of Rene F. Aguas, Cherry Calilung-Aguas, Petitioner*" (Settlement Proceeding). The Settlement Proceeding was raffled to RTC-Angeles City, Branch 56 (Branch 56).<sup>[9]</sup> On the other hand, the Aguas heirs filed a Comment/Opposition<sup>[10]</sup> dated October 2, 2017 in the Settlement Proceeding, alleging, among others, that they are the legitimate children of the late Rene with Lucila; that the marriage of Rene and Lucila was dissolved, but there was no liquidation or separation of the properties acquired during their marriage in accordance with Article 102 of the Family Code; that Article 52 of the Family Code requires that the judgment of absolute nullity of marriage, the partition and distribution of the properties of the spouses and the delivery of the children's presumptive legitimes shall be recorded in the appropriate civil registry and registries of properties; that the failure to comply with the requirements of Article 52 of the Family Code would have the effect of nullifying the subsequent marriage between Rene and Cherry pursuant to Article 53 of the same Code; and that when Rene married Cherry, the properties of Rene acquired during the previous marriage should not have been included in their property regime pursuant to Article 92 of the Family Code.<sup>[11]</sup>

On November 3, 2017, Lucila and the Aguas heirs (petitioners) filed with the RTC of Angeles City a petition for Declaration of Nullity of Marriage<sup>[12]</sup> of Rene and Cherry (RTC petition) on the ground that the said subsequent marriage was entered into without complying the provisions in Articles 52 and 53 of the Family Code on the partition and distribution of the properties of the previous marriage and the delivery of the presumptive legitimes.

The RTC petition was raffled to RTC-Angeles City, Branch 59 (Branch 59), the designated Family Court.

On November 10, 2017, Branch 59 issued an Order<sup>[13]</sup> (Transmittal Order) directing the transmittal of the case record to the Office of the Clerk of Court for re-raffle among courts of general jurisdiction. Branch 59 held that the RTC petition involves a collateral attack on the validity of marriage of Rene and Cherry which does not fall within the jurisdiction of a Family Court, to wit:

Considering that the instant Petition involves a collateral attack on the validity of marriage of [Cherry] and [Rene], it does not fall within the jurisdiction of a [F]amily [C]ourt.

As per deliberations of the Supreme Court Committee on Revision of Rules:

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of nullity of void marriages. Such

petition cannot be filed by compulsory heirs of the spouse or the State. The Committee is of the belief that they do not have a legal right to file the petition. **Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of the deceased spouse filed in the regular courts.** On the other hand, the concern of the State is to preserve marriage and not to seek dissolution.

IN LIGHT OF THE FOREGOING, the Branch Clerk of Court is hereby directed to transmit the record of this case to the Office of the Clerk of Court, Regional Trial Court of Angeles City for re-raffle among courts of general jurisdiction.<sup>[14]</sup> (Citations omitted; italics, emphasis and underscoring in the original)

In view of the Transmittal Order of Branch 59, the RTC petition was re-raffled to RTC-Angeles City, Branch 60 (Branch 60).

On November 24, 2017, Branch 60 issued the first assailed Order which dismissed the re-raffled RTC petition on the ground of lack of jurisdiction.

Branch 60 held that the RTC petition is hinged upon the issue of validity of marriage emanating from Articles 52 and 53 of the Family Code. Pursuant to Section 5 of Republic Act (R.A.) No. 8369, otherwise known as the Family Courts Act of 1997, it is the Family Court which has jurisdiction over the case and not Branch 60 which is no longer a Family Court. In addition, citing A.M. No. 02-11-10-SC<sup>[15]</sup> and the ruling in *Enrico v. Heirs of Spouses Medinaceli*,<sup>[16]</sup> Branch 60 ruled that the petitioners have no cause of action to file the petition for declaration of nullity of marriage since it is the sole right of the husband or the wife to file the said petition involving marriages under the Family Code of the Philippines. Nonetheless, the compulsory or intestate heirs can still question the validity of the marriage of the spouses, not in a proceeding for declaration of nullity, but upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. In the end, Branch 60 decreed as follows:

In view of the foregoing, the petition filed by the petitioners Lucila David and the Heirs of Rene Aguas namely: Princess Luren D. Aguas, Danica Lane D. Aguas, Sean Patrick D. Aguas, Sean Michael D. Aguas and Samantha Mari S. Aguas against Cherry Calilung, is hereby dismissed for lack of jurisdiction.

SO ORDERED.<sup>[17]</sup>

On December 5, 2017, petitioners received both the Transmittal Order of Branch 59 and the first assailed Order of Branch 60.

Thereafter, petitioners filed a motion for reconsideration of the first assailed Order of

Branch 60, praying, in the main, that the case be referred back to the Family Court instead of dismissing the same.

On June 13, 2018, Branch 60 issued the second assailed Order<sup>[18]</sup> denying the petitioners' motion for reconsideration. It explained that the Transmittal Order of Branch 59 has already become final after the petitioners failed to file a motion for reconsideration thereto and that to refer back the case to the said Family Court would effectively disregard the aforesaid Order of a co-equal branch which is already final and executory. Branch 60 also maintained its position that, according to the rules, only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriage.

Aggrieved, petitioners seek direct recourse with the Court through the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court on pure questions of law.

The petitioners raised the following grounds to support their petition:

- I. THE ABRUPT DISMISSAL BY THE LOWER COURT (RTC BRANCH 60) OF THE PETITION FOR DECLARATION OF NULLITY [OF MARRIAGE] WITHOUT WAITING FOR THE PETITIONERS TO EXERCISE THEIR RIGHT TO FILE A MOTION FOR RECONSIDERATION ON THE ORDER OF TRANSMITTAL ISSUED BY RTC BRANCH 59 TO HAVE ELAPSED IS UNPROCEDURAL.
- II. RTC BRANCH 60 ERRED IN HOLDING THAT THE REFERRAL OF THE CASE BACK TO THE FAMILY COURT IS AN IMPOSITION UPON A CO-EQUAL BRANCH.
- III. THE LOWER COURT COMMITTED MANIFEST ERROR OF LAW AND ACTED IN A MANNER CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE IN DISMISSING THE PETITION FOR NULLITY ON THE GROUND OF LACK OF JURISDICTION.<sup>[19]</sup>

### **The Issues**

The issues which confront the Court in the instant case may be summarized as follows:

1. Whether it is Branch 59 or Branch 60 which has jurisdiction over the RTC petition for declaration of nullity of marriage;
2. Whether or not Branch 60 erred in dismissing the RTC petition for nullity of marriage; and
3. Whether or not the petitioners are the real parties-in-interest to file the subject RTC petition for nullity of marriage.

## The Court's Ruling

The Court denies the petition.

The issues involved in the instant petition, being interrelated, are discussed jointly.

***The petition for declaration of nullity of marriage is under the jurisdiction of the RTC branch designated as Family Court pursuant to R.A. No. 8369 when there is one in the area.***

It is a well-entrenched doctrine that the jurisdiction of a tribunal over the subject matter of an action is conferred by law<sup>[20]</sup> and that the same is determined by the statute in force at the time of the commencement of the action.<sup>[21]</sup>

Pertinent to the instant case is R.A. No. 8369, otherwise known as the Family Courts Act of 1997,<sup>[22]</sup> which took effect on November 23, 1997.<sup>[23]</sup> The said law, particularly Sections 3 and 5 thereof, created Family Courts and grant unto them exclusive jurisdiction over complaints for declaration of nullity of marriage, among others, to wit:

SEC. 3. *Establishment of Family Courts.* – There shall be established a Family Court in every province and city in the country. In case where the city is the capital of the province, the Family Court shall be established in the municipality which has the highest population.

x x x x

SEC. 5. *Jurisdiction of Family Courts.* – The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age or where one or more of the victims is a minor at the time of the commission of the offense: *Provided*, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred.

The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code;"

b) Petitions for guardianship, custody of children, [*habeas corpus*] in relation to the latter;

c) Petitions for adoption of children and the revocation thereof;