

THIRD DIVISION

[G.R. No. 230443, April 03, 2019]

**MARY CHRISTINE C. GO-YU, PETITIONER, VS. ROMEO A. YU,
RESPONDENT.**

DECISION

PERALTA, J.:

Assailed in the present petition for review on *certiorari* under Rule 45 of the Rules of Court are the Decision^[1] and the Resolution^[2] of the Court of Appeals (CA) promulgated on January 13, 2017 and March 6, 2017, respectively, in CA-G.R. SP No. 05780-MIN. The assailed CA Decision reversed and set aside the following: (1) the June 20, 2013 Order^[3] of the Regional Trial Court (RTC) of Davao City, Branch 12, in Civil Case No. 33,083-09, which denied herein respondent Romeo A. Yu's Demurrer to Evidence in the Petition for Declaration of Nullity of Marriage and Dissolution of the Absolute Community of Property which petitioner Mary Christine C. Go-Yu filed against respondent; and (2) the July 31, 2013 Order^[4] of the RTC denying respondent's Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

On October 21, 2009, herein petitioner filed with the RTC of Davao City, Branch 12, a Petition for Declaration of Nullity of Marriage and Dissolution of the Absolute Community of Property^[5] against herein respondent, alleging that: she was a child who was well provided for and taken care of by her parents; she grew up to become a self-assured, independent and confident person; after finishing college at the University of British Columbia in Vancouver, Canada, she came back home to the Philippines, worked in various companies, eventually joined their family business where she started as a secretary and worked her way to become the Senior Vice President who is in charge of the day-to-day operations of the company which has in its employ at least 700 personnel; she and respondent were casually introduced by the former's mother; several months after their first meeting, respondent asked her out on a date and, after a few months of dating exclusively, they got married on June 11, 1999; thereafter, they stayed at respondent's family home where petitioner had to contend with the constant meddling of her mother-in-law, as well as the latter's intrusion into their privacy; when she complained, respondent promised her that they will eventually move out; however, his promise was never fulfilled; petitioner had to make a lot of adjustments which entailed a lot of sacrifice on her part; she gave up some of the luxuries she had gotten used to when respondent's financial resources dwindled; she limited her social life and became withdrawn, maintaining only a small circle of friends; she took on the responsibility of single-handedly running their household and making all decisions as respondent was too busy in his involvement with his personal and social activities outside their house; after their wedding, the parties' sexual activity decreased considerably; petitioner was unable to conceive and even tried to convince respondent that she undergo in

vitro fertilization but the latter refused; as a result, the parties grew apart as a married couple leading them to live separate lives even though they stay under the same roof; petitioner was eventually diagnosed with Narcissistic Personality Disorder which was found to exist before the parties' marriage; and the fact that petitioner is comfortable with her behavior and sees nothing wrong with it or the need to change renders treatment improbable. Petitioner sought the dissolution of the parties' absolute community of properties claiming that their marriage is governed by the provisions of the Family Code and that they did not enter into any prenuptial agreement.

In his Amended Answer with Special and Affirmative Defenses, respondent denied the material allegations of petitioner's Petition and contended that: he offers his love and affection for petitioner and he desires for them to reconcile and save their marriage in the spirit of love, forgiveness and Christian values on marriage; and petitioner is not suffering from psychological incapacity and personality disorder, instead, her problem is behavioral in the sense that she has difficulty adjusting to married life and in dealing with respondent's relatives, especially his mother. As to the dissolution of the parties' absolute community of properties, respondent claimed that the properties adverted to by petitioner in her Petition are not properties of the parties' absolute community as these are merely held by respondent in trust for his siblings and relatives; in fact, petitioner had executed an attestation admitting that the properties she mentioned in her Petition are owned by respondent's siblings and other relatives.

Subsequently, the case proceeded to trial where petitioner presented her documentary and testimonial evidence, the latter consisting of the testimonies of petitioner, her friend, her secretary, and the psychiatrist who examined her.

After petitioner has rested her case, respondent filed a Demurrer to Evidence^[6] claiming that petitioner's alleged Narcissistic Personality Disorder, which supposedly renders her psychologically incapacitated to perform her essential marital obligations, is not supported by clear evidence.

In its Order^[7] of June 20, 2013, the RTC denied respondent's Demurrer to Evidence by holding that petitioner has adduced substantial evidence to show that she is suffering from a personality disorder and that there is, therefore, a need for respondent to adduce controverting evidence. Respondent filed a Motion for Reconsideration^[8] but the same was denied in the Order^[9] of the RTC dated July 31, 2013.

Respondent then filed with the CA a special civil action for *certiorari* under Rule 65 of the Rules of Court assailing the Orders of the RTC which denied his Demurrer to Evidence and his subsequent Motion for Reconsideration.^[10]

In its assailed Decision dated January 13, 2017, the CA reversed and set aside the June 20, 2013 and July 31, 2013 Orders of the RTC and granted respondent's Demurrer to Evidence, thereby dismissing the Petition for Declaration of Nullity of Marriage and Dissolution of the Absolute Community of Property filed by petitioner.

The CA held that the evidence presented by petitioner, through the psychological report and all supporting testimonial evidence, failed to establish any proof of a

natal or supervening disabling factor that effectively incapacitated her from complying with her essential marital obligations. The CA further ruled that, if at all, what petitioner has admitted to be afflicted of or materially manifesting in her marriage with respondent is an obvious refusal, if not neglect, to perform her marital obligations. The CA concluded that it was grave abuse of discretion on the part of the trial judge to have denied the demurrer to evidence and require respondent to controvert petitioner's evidence which is patently lacking and, thus, unduly impose unwarranted burden on respondent and his resources, and, most especially, the docket of the courts.

Petitioner filed a Motion for Reconsideration but the CA denied it in its Resolution dated March 6, 2017.

Hence, the instant petition for review on *certiorari* based on the following grounds:

I.

WITH ALL DUE RESPECT, THE COURT OF APPEALS MAY HAVE COMMITTED REVERSIBLE ERROR WHEN IT FAILED, OR REFUSED, TO CONSIDER THE FOLLOWING NEW AND SUBSTANTIAL LEGAL ISSUES RAISED IN THE MOTION FOR RECONSIDERATION, THAT:

A. RESPONDENT'S PETITION WITH THE COURT OF APPEALS FOR CERTIORARI UNDER RULE 65, WHICH IT GRANTED IN ITS ASSAILED DECISION, HAS IN FACT ALREADY BEEN MOOTED AND OVERTAKEN BY THE PROCEEDINGS IN THE TRIAL COURT, WHERE THE TRIAL COURT ORDERED THE PETITION FOR DECLARATION OF NULLITY OF MARRIAGE SUBMITTED FOR DECISION, AFTER RESPONDENT HAD SUBMITTED HIS OWN CONTROVERTING EVIDENCE AND RESTED HIS CASE.

B. CONTRARY TO ITS RULING WHICH ADMITTEDLY WAS BASED ONLY ON THE EVIDENCE PRESENTED THUS FAR AT THE TIME OF THE FILING OF THE DEMURRER TO EVIDENCE, THE TOTALITY OF EVIDENCE PRESENTED BY THE PETITIONER WAS NOT AT ALL "PATENTLY LACKING" AS IN FACT IT HAS SATISFACTORILY SUPPORTED THE CASE FOR DECLARATION OF NULLITY OF MARRIAGE, AND WHICH WAS NOT EVEN EFFECTIVELY CONTROVERTED BY RESPONDENT'S OWN EVIDENCE.

II.

WITH ALL DUE RESPECT, THE COURT OF APPEALS HAD NO FACTUAL AND LEGAL BASIS TO RULE THAT PETITIONER'S MOTION FOR RECONSIDERATION WAS FILED OUT OF TIME.^[11]

The petition lacks merit.

In her first assigned error, petitioner contends that respondent's petition for *certiorari* filed with the CA was rendered moot by reason of the continuation of the proceedings before the RTC where respondent was able to present his own controverting evidence and rested his case. Petitioner also argues that, contrary to the assailed ruling of the CA, the totality of evidence she presented before the trial

court was not patently lacking but, in fact, has satisfactorily supported the case for declaration of nullity of the parties' marriage.

The Court is not persuaded.

It is settled that a special civil action for *certiorari* under Rule 65 of the Rules of Court is an original action, independent from the principal action, and not a part or a continuation of the trial which resulted in the rendition of the judgment complained of.^[12] It "is intended for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. Its principal office is only to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction."^[13] As a consequence, "a petition for *certiorari* pending before a higher court does not necessarily become moot and academic by a continuation of the proceedings in the court of origin."^[14] Hence, in the instant case, the special civil action for *certiorari* which respondent filed with the CA is independent from the petition for declaration of nullity of marriage filed by petitioner. Being independent from the principal action, the petition for *certiorari* may not, thus, be rendered moot by the mere continuation of the proceedings in the RTC.

It is true that under Section 7,^[15] Rule 65 of the Rules of Court, a petition for *certiorari* shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case. However, despite the absence of a temporary restraining order or a writ of preliminary injunction which enjoins the RTC from further proceeding with the case, it appears that the RTC has chosen to follow the rule on judicial courtesy. Indeed, while the RTC continued in holding trial and, in fact, allowed the parties to complete the presentation of their evidence, it stopped short of rendering its decision on the petition even if the same has been submitted for resolution as early as July 1, 2015.

In this regard, this Court has noted instances where even if there is no writ of preliminary injunction or temporary restraining order issued by a higher court, it would be proper for a lower court or court of origin to suspend its proceedings on the precept of judicial courtesy. As this Court explained in *Eternal Gardens Memorial Park Corp. v. Court of Appeals*:^[16]

Although this Court did not issue any restraining order against the Intermediate Appellate Court to prevent it from taking any action with regard to its resolutions respectively granting respondents' motion to expunge from the records the petitioner's motion to dismiss and denying the latter's motion to reconsider such order, upon learning of the petition, the appellate court should have refrained from ruling thereon because its jurisdiction was necessarily limited upon the filing of a petition for *certiorari* with this Court questioning the propriety of the issuance of the above-mentioned resolutions. Due respect for the Supreme Court and practical and ethical considerations should have prompted the appellate court to wait for the final determination of the petition before taking cognizance of the case and trying to render moot exactly what was before this court[.]^[17]

In the subsequent cases of *Go v. Judge Abrogar*^[18] and *Rep. of the Phils. v. Sandiganbayan (First Div.)*,^[19] this Court has qualified and limited the application of the principle of judicial courtesy to maintain the efficacy of Section 7, Rule 65 of the Rules of Court by holding that the principle of judicial courtesy applies only if there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court. Thus, the principle of judicial courtesy remains to be the exception rather than the rule.

In the instant case, the Court finds that the RTC correctly adhered to this principle because there is a strong probability that the issue raised before the CA - of whether or not the RTC committed grave abuse of discretion in denying respondent's Demurrer to Evidence, which issue ultimately lies in the determination of whether or not petitioner's evidence is patently and utterly insufficient to prove her petition for declaration of nullity of marriage - would be rendered moot as a result of the continuation of the proceedings in the lower court.

Petitioner further insists that the issue of the presence or absence of psychological incapacity on the part of petitioner is a factual matter which requires the examination and determination of the totality of evidence presented and, as such, the trial court should have primacy in the determination thereof.

It bears to remind petitioner, however, of the nature of a demurrer to evidence.

"A *demurrer to evidence* is defined as 'an objection or exception by one of the parties in an action at law, to the effect that the evidence which his adversary produced is insufficient in point of law (whether true or not) to make out his case or sustain the issue.' The demurrer challenges the sufficiency of the plaintiffs evidence to sustain a verdict. In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt."^[20] Moreover, "[t]he grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of such discretion."^[21]

As to whether or not a trial court's denial of a demurrer to evidence may be the subject of a petition for *certiorari* under Rule 65 of the Rules of Court, this Court, in the case of *Ong, et al. v. People of the Philippines*,^[22] held as follows:

Indeed, the rule generally prevailing is that "*certiorari* does not lie to review a trial court's interlocutory order denying a motion to dismiss (or to acquit), which is equivalent to a demurrer to evidence, filed after the prosecution had presented its evidence and rested its case. An order denying a demurrer to evidence is interlocutory. It is not appealable. Neither can it be the subject of a petition for *certiorari* (*Tadeo v. People*, 300 SCRA 744 [1998])."

However, *Tadeo* itself states that "[f]rom such denial (of the demurrer to evidence), appeal in due time is the proper remedy, not *certiorari*, in the absence of grave abuse of discretion or excess of jurisdiction, or an oppressive exercise of judicial authority."