

SECOND DIVISION

[G.R. No. 202069, March 07, 2018]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ALVIN C. DIMARUCOT AND NAILYN TAÑEDO-DIMARUCOT, RESPONDENTS.

DECISION

CAGUIOA, J:

The Case

This is a Petition for Review on *Certiorari*^[1] (Petition) filed under Rule 45 of the Rules of Court (Rules) against the Decision^[2] dated July 29, 2011 (Assailed Decision) and Resolution^[3] dated May 24, 2012 (Assailed Resolution) in CA-G.R. SP No. 116572 rendered by the Court of Appeals (CA) Sixteenth Division and Former Sixteenth Division, respectively.

The Assailed Decision and Resolution stem from the following orders^[4] rendered by the Regional Trial Court of Guimba, Nueva Ecija, Branch 33 (RTC) against petitioner Republic of the Philippines (Republic) in Civil Case No. 1527-G, to wit:

1. The Order^[5] dated August 13, 2010 (August 2010 RTC Order) denying the Motion for Reconsideration of the Decision^[6] dated July 2, 2010 rendered by the RTC (RTC Decision) which, in turn, declared the marriage between respondents Alvin C. Dimarucot (Alvin) and Nailyn Tanedo-Dimarucot (Nailyn) (collectively, Respondents) null and void; and
2. The Order^[7] dated September 13, 2010 (September 2010 RTC Order) denying due course to the Republic's Notice of Appeal^[8] dated September 1, 2010.

The Facts

Respondents met sometime in 2002 and became friends.^[9] This friendship immediately progressed and turned into an intimate romantic relationship,^[10] leading to Nailyn's pregnancy in March 2003. Two months later, the Respondents wed in civil rights on May 18, 2003.^[11]

Nailyn gave birth to the Respondents' first child, Ayla Nicole, on November 11, 2003.^[12] Years later, on December 13, 2007, Nailyn gave birth to Respondents' second child, Anyelle.^[13]

It appears, however, that Respondents' whirlwind romance resulted in a problematic marriage, as Alvin filed a Petition for Declaration of Absolute Nullity of Marriage (RTC Petition) before the RTC on September 22, 2009.^[14]

In the RTC Petition, Alvin alleged that Nailyn suffers from psychological incapacity which renders her incapable of complying with the essential obligations of marriage.^[15] Hence, Alvin prayed that his marriage with Nailyn be declared null and void pursuant to Article 36 of the Family Code.^[16]

The Provincial Prosecutor was deputized by the Office of the Solicitor General (OSG) to assist in the case.^[17]

On July 2, 2010, the RTC, through Presiding Judge Ismael P. Casabar (Judge Casabar), rendered a Decision declaring Respondents' marriage null and void. The pertinent portions of the RTC Decision read:

From the evidence adduced by [Alvin], this court is convinced that [Nailyn] is psychologically incapacitated to perform her basic marital obligations. Her being a loose-spender, overly materialistic and her complete disregard of the basic foundation of their marriage [—] to live together, observe mutual love, respect and fidelity and render mutual help and support are manifestations of her psychological incapacity to comply with the basic marital duties and responsibilities. Her incapacity is grave, permanent and incurable. It existed from her childhood and became so manifest after the celebration of their marriage.

WHEREFORE, judgment is rendered declaring the marriage between [Alvin] and [Nailyn] void on the ground of psychological incapacity on the part of [Nailyn] to fulfill the basic marital obligations.^[18]

On **July 27, 2010**, the Republic, through the OSG, filed a Motion for Reconsideration^[19] (MR) of even date, alleging that "[Alvin] failed to prove the **juridical antecedence, gravity** and **incurability** of his wife's alleged psychological incapacity."^[20] However, the Notice of Hearing annexed to the MR erroneously set the same for hearing on **July 6, 2010** (instead of **August 6, 2010** as the OSG later explained^[21]).^[22]

The RTC denied the Republic's MR through the August 2010 RTC Order, which reads in part:

Acting on the [MR] filed by the [OSG] through State Solicitor Josephine D. Arias and it appearing that the motion was set for hearing on July 6, 2010 yet the motion itself was filed only on July 27, 2010.

This Court is at loss as to when the instant motion should be heard.

Under these circumstances, the instant motion is considered one which is not set for hearing and therefore, a mere scrap of paper, and as such it presents no question which merits the attention and consideration of the court. It is not even a motion for it does not comply with the rules and hence, the clerk has no right to receive it.

Failure to comply with the requirements of Rule 15, sections 4, 5 and 6 is a fatal flaw.

WHEREFORE, for lack of merit, the motion is denied.^[23] (Citations omitted)

Thus, on September 1, 2010, the Republic filed a Notice of Appeal of even date, which was denied in the September 2010 RTC Order. Said order reads, in part:

Record shows that the [MR] did not comply with the requirements set forth under Rule 15, sections 4, 5 and 6 of the [Rules], in that it was not set for hearing. Said [MR] did not interrupt the running of the period of appeal. Hence, the [RTC Decision] rendered in this case attained finality.

WHEREFORE, the [Notice of Appeal] being taken out of time is hereby DISMISSED.^[24] (Citation omitted)

Subsequently, on October 22, 2010, the Republic filed a Petition for *Certiorari*^[25] (CA Petition) before the CA, ascribing grave abuse of discretion on the part of the RTC for issuing the August and September 2010 RTC orders.^[26]

The Republic claimed that its MR substantially complied with the requirements of Sections 4, 5 and 6 of Rule 15 governing motions.^[27] Hence, the RTC should not have treated said MR as a mere scrap of paper solely because of the misstatement of the proposed hearing date in the Notice of Hearing appended thereto, considering that the RTC is "not without any discretion" to set the MR for hearing on a different date.^[28]

The Republic also raised, albeit in passing, that with the exception of the copy of the RTC Petition, the OSG was not furnished with other orders, legal processes and pleadings after it had deputized the Provincial Prosecutor to assist in the RTC case.^[29]

On July 29, 2011, the CA rendered the Assailed Decision denying the CA Petition.

The CA held that the CA Petition warrants outright dismissal because it was filed without the benefit of a motion for reconsideration^[30] — an indispensable requirement for the filing of a petition for *certiorari* under Rule 65.^[31] The CA further held that in any case, the Republic's allegation that its MR substantially complied with all the requirements under Rule 15 lacks merit. Pertinent portions of the Assailed Decision read:

In a litany of cases, the [Court] already held that a motion for reconsideration, as a general rule, must have first been filed before the tribunal, board or officer against whom the writ of certiorari is sought. This is intended to afford the latter an opportunity to correct any factual or fancied error attributed to it. And while there are **exceptions** to said rule, x x x

x x x x

none of the x x x exceptions attends this case since a motion for reconsideration is a **plain, speedy and adequate remedy** in the

ordinary course of law, the OSG should have filed first a motion for reconsideration of the [August 2010 RTC Order] rather than merely presume that the trial court would *motu proprio* take cognizance of its (the OSG's) alleged "typographical error". It should not have prematurely filed the present petition before [the CA]. Its failure to explain or justify as to why it did not first move for reconsideration of the herein assailed [August 2010 RTC Order] deprives [the CA] of any 'concrete, compelling and valid reason' to except (sic) the Republic from the aforementioned general rule of procedure.

Even the OSG's allegation that its motion for reconsideration complied with all the requirements of Sections 4, 5 and 6, Rule 15 of the [Rules], fails to convince [the CA].

x x x x

The x x x requirements — that the notice shall be directed to the parties concerned and shall state the time and date for the hearing of the motion — are **mandatory**, so much so that **if not religiously complied with, the motion becomes *pro forma***. Indeed, as held by the RTC, a motion that does not comply with the requirements of Sections 4 and 5 of Rule 15 of the [Rules] is a **worthless piece of paper** which the clerk of court has no right to receive and which the court has no authority to act upon.

x x x x

WHEREFORE, the petition is **DISMISSED** for lack of merit.^[32]
(Emphasis and italics in the original)

The Republic filed a Motion for Reconsideration^[33] (CA MR), arguing that the CA failed to consider that Atty. Amy Linda C. Dimarucot (Atty. Amy), the Clerk of Court of the RTC, is respondent Alvin's sibling, and that her participation in her brother's case constitutes a violation of Section 1, Rule 137 of the Rules.^[34] The Republic further argued that the RTC should not have denied its Notice of Appeal, since appeal is precisely the proper remedy to assail the August 2010 RTC Order pursuant to Section 9, Rule 37 of the Rules and Section 20 (2) of the Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.^[35]

The CA denied the CA MR in the Assailed Resolution. Therein, the CA clarified that the RTC Order adverted to in the Assailed Decision is the **September 2010 RTC Order** (denying the Republic's Notice of Appeal) and *not* the **August 2010 RTC Order** (denying the Republic's MR of the RTC Decision), as erroneously stated therein.^[36] The Assailed Resolution did not pass upon the Republic's allegation anent Atty. Amy's alleged violation of Rule 137.

The Republic received a copy of the Assailed Resolution on May 31, 2012.^[37]

On June 15, 2012, the Republic filed a Motion for Extension of Time to File Petition,^[38] praying for an additional period of thirty (30) days, or until July 15, 2012, within which to file its petition for review.^[39]

The Republic filed the present Petition on July 16, 2012, as July 15, 2012 fell on a Sunday.^[40]

On August 15, 2012, the Court issued a Resolution directing Alvin and Nailyn to file their respective comments to the Petition.^[41] Alvin and Nailyn filed their comments^[42] dated January 7, 2013 and December 2, 2013, respectively.

The Republic filed its Consolidated Reply^[43] to the respondents' comments on May 7, 2014.

The Issues

The Petition calls on the Court to resolve the following issues:

1. Whether the CA erred when it caused the outright dismissal of the CA Petition because it was filed without the benefit of a prior motion for reconsideration of the September 2010 RTC Order;
2. Whether the CA erred when it affirmed the August and September 2010 RTC orders which denied the Republic's MR and subsequent Notice of Appeal on procedural grounds; and
3. Whether the CA erred when it did not pass upon Atty. Amy's alleged violation of Rule 137.

The Court's Ruling

In this Petition, the Republic claims that the RTC employed a "double standard" in the application of the Rules, for while it strictly applied Rule 15 (governing motions) against the Republic, it did not apply Rule 137 (governing disqualification of judicial officers) against its Clerk of Court Atty. Amy, who participated in the RTC proceedings despite being the sister of party-respondent Alvin.^[44]

Proceeding therefrom, the Republic argues that in affirming the RTC orders, the CA erroneously deprived it of the opportunity to fully ventilate its objections against the RTC Decision which declared Alvin and Nailyn's marriage null and void.^[45]

The Court grants the Petition.

A prior motion for reconsideration is not necessary for a petition for certiorari to prosper in cases where such motion would be useless.

It is true that this Court has ruled that "*certiorari*, as a special civil action will not lie unless a motion for reconsideration is first filed before the respondent tribunal, to allow it an opportunity to correct its assigned errors."^[46] However, this general rule is subject to well-defined exceptions, thus:

Moreover, while it is a settled rule that a special civil action for certiorari under Rule 65 will not lie unless a motion for reconsideration is filed before the respondent court; there are well-defined exceptions