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FIRST DIVISION

[G.R. No. 189607, April 18, 2016]

RENATO A. CASTILLO, PETITIONER, VS. LEA P. DE LEON CASTILLO, RESPONDENT.

D E C I S I O N

SERENO, C.J.:

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.

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.

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.

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]

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 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 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