

## THIRD DIVISION

[ G.R. No. 198908, August 03, 2015 ]

**VIRGINIA OCAMPO, PETITIONER, VS. DEOGRACIO OCAMPO,  
RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal of the Decision<sup>[1]</sup> dated August 11, 2010 and Resolution<sup>[2]</sup> dated October 5, 2011, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 82318, which denied the petitioner's appeal and motion for reconsideration.

The facts of the case, as culled from the records, are as follows:

On September 10, 1990, petitioner Virginia Sy Ocampo (*Virginia*) filed a Petition for Declaration of Nullity of her Marriage with Deogracio Ocampo (*Deogracio*) before Regional Trial Court of Quezon City, Branch 87, on the ground of psychological incapacity, docketed as Civil Case No. Q-90-6616.<sup>[3]</sup>

On January 22, 1993, the trial court rendered a Decision<sup>[4]</sup> declaring the marriage between Virginia and Deogracio as null and void, the dispositive portion of which reads:

WHEREFORE, the petition is hereby GRANTED. The marriage between the petitioner and the respondent is hereby declared null and void from the beginning under Article 36 of the Family Code. The status of their children, however, shall remain legitimate and their custody is hereby awarded to the petitioner.

As to the couple's property relations, their conjugal partnership of gains shall necessarily be dissolved and liquidated but since the petitioner has not submitted any detailed and formal listing or inventory of such property, the court cannot act now on the liquidation aspect. The parties are given thirty (30) days to submit an inventory of their conjugal partnership for the purpose of liquidation.

IT IS SO ORDERED.<sup>[5]</sup>

The decision became final, since no party appealed the judgment annulling the marriage.

On March 31, 1999, the trial court directed the parties to submit a project of

partition of their inventoried properties, and if they failed to do so, a hearing will be held on the factual issues with regard to said properties. Having failed to agree on a project of partition of their conjugal properties, hearing ensued where the parties adduced evidence in support of their respective stand.

On January 13, 2004, the trial court rendered the assailed Order<sup>[6]</sup> stating that the properties declared by the parties belong to each one of them on a 50-50 sharing.

On February 2, 2004, Virginia filed a Notice of Appeal before the trial court.

On February 13, 2004, Deogracio filed a Motion to Deny and/or Dismiss the Notice of Appeal and for immediate execution pursuant to Section 20 of A.M. No. 02-1-10.

On February 20, 2004, the trial court denied the aforesaid motion to deny and/or dismiss the notice of appeal for lack of merit.

On March 4, 2004, Deogracio filed a Motion for Reconsideration. On March 22, 2004, the trial court denied anew the motion for reconsideration.

In the disputed Decision dated August 11, 2010, the Court of Appeals denied Virginia's appeal. Virginia moved for reconsideration, but was denied in a Resolution dated October 5, 2011.

Thus, the instant petition for review substantially questioning whether respondent should be deprived of his share in the conjugal partnership of gains by reason of bad faith and psychological perversity.

The petition lacks merit.

While Virginia and Deogracio tied the marital knot on January 16, 1978, it is still the Family Code provisions on conjugal partnerships, however, which will govern the property relations between Deogracio and Virginia even if they were married before the effectivity of the Family Code.

Article 105 of the Family Code explicitly mandates that the Family Code shall apply to conjugal partnerships established before the Family Code without prejudice to vested rights already acquired under the Civil Code or other laws. Thus, under the Family Code, if the properties are acquired during the marriage, the presumption is that they are conjugal. Hence, the burden of proof is on the party claiming that they are not conjugal. This is counter-balanced by the requirement that the properties must first be proven to have been acquired during the marriage before they are presumed conjugal.<sup>[7]</sup>

The applicable law, however, in so far as the liquidation of the conjugal partnership assets and liability is concerned, is Article 129<sup>[8]</sup> of the Family Code in relation to Article 147 of the Family Code.<sup>[9]</sup>

The Court held that in a void marriage, as in those declared void under Article 36<sup>[10]</sup> of the Family Code, the property relations of the parties during the period of cohabitation is governed either by Article 147 or Article 148 of the Family Code.<sup>[11]</sup> Article 147 of the Family Code applies to union of parties who are legally capacitated

and not barred by any impediment to contract marriage, but whose marriage is nonetheless void, as in this case. Article 147 of the Family Code provides:

Article 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

***In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.***

Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.

When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such share shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation.<sup>[12]</sup>

This particular kind of co-ownership applies when a man and a woman, suffering no illegal impediment to marry each other, exclusively live together as husband and wife under a void marriage or without the benefit of marriage. It is clear, therefore, that for Article 147 to operate, the man and the woman: (1) must be capacitated to marry each other; (2) live exclusively with each other as husband and wife; and (3) their union is without the benefit of marriage or their marriage is void, as in the instant case. The term "capacitated" in the first paragraph of the provision pertains to the legal capacity of a party to contract marriage. Any impediment to marry has not been shown to have existed on the part of either Virginia or Deogracio. They lived exclusively with each other as husband and wife. However, their marriage was found to be void under Article 36 of the Family Code on the ground of psychological incapacity.<sup>[13]</sup>

From the foregoing, property acquired by both spouses through their work and industry should, therefore, be governed by the rules on equal co-ownership. Any property acquired during the union is *prima facie* presumed to have been obtained through their joint efforts. A party who did not participate in the acquisition of the property shall be considered as having contributed to the same jointly if said party's

efforts consisted in the care and maintenance of the family household. Efforts in the care and maintenance of the family and household are regarded as contributions to the acquisition of common property by one who has no salary or income or work or industry.<sup>[14]</sup>

Citing *Valdes v. RTC*,<sup>[15]</sup> the Court held that the court *a quo* did not commit a reversible error in utilizing Article 147 of the Family Code and in ruling that the former spouses own the family home and all their common property in equal shares, as well as in concluding that, in the liquidation and partition of the property that they owned in common, the provisions on co-ownership under the Civil Code should aptly prevail. The rules which are set up to govern the liquidation of either the absolute community or the conjugal partnership of gains, the property regimes recognized for valid and voidable marriages, are irrelevant to the liquidation of the co-ownership that exists between common-law spouses or spouses of void marriages.

Thus, the trial court and the appellate court correctly held that the parties will share on equal shares considering that Virginia failed to prove that the properties were acquired solely on her own efforts, to wit:

This Court keenly observes that only testimonial evidence was presented by the parties respectively, to prove and dispute the claim of the other with regard to the properties and assets acquired during the marriage. In the absence, therefore, of any documentary evidence to prove the contrary, all the properties acquired by the spouses during the marriage are presumed conjugal. Further, the testimonial evidence adduced by the petitioner aimed at establishing that respondent took no part in acquiring said properties failed to convince this Court that the latter be given only a meager share thereof.

While it may be true that management of the businesses referred to herein may have been actively undertaken by the petitioner, it cannot be gainsaid that petitioner was able to do so without the invaluable help of respondent. Even a plain housewife who stays all the time in the house and take[s] care of the household while the husband indulges in lucrative and gainful activities is entitled to a share in the same proportion the husband is, to the property or properties acquired by the marriage. In the same breadth, respondent must be considered to be entitled to the same extent. Petitioner's claim that the seed money in that business was provided by her mother and that, had it not been for that reason, the properties now subject of controversy could not have been acquired. That may be true but the Court is not prone to believe so because of insufficient evidence to prove such contention but petitioner's self-serving allegations. Of course, attempts to establish respondent as an irresponsible and unfaithful husband, as well as family man were made but the testimonies adduced towards that end, failed to fully convince the Court that respondent should be punished by depriving him of his share of the conjugal property because of his indiscretion.<sup>[16]</sup>

In the instant case, both the trial and appellate courts agreed that the subject