

## SECOND DIVISION

[ G.R. No. 188801, October 15, 2014 ]

**ROSARIO MATA CASTRO AND JOANNE BENEDICTA CHARISSIMA M. CASTRO, A.K.A. "MARIA SOCORRO M. CASTRO" AND "JAYROSE M. CASTRO," PETITIONERS, VS. JOSE MARIA JED LEMUEL GREGORIO AND ANA MARIA REGINA GREGORIO, RESPONDENTS.**

### D E C I S I O N

**LEONEN, J.:**

The policy of the law is clear. In order to maintain harmony, there must be a showing of notice and consent. This cannot be defeated by mere procedural devices. In all instances where it appears that a spouse attempts to adopt a child out of wedlock, the other spouse and other legitimate children must be personally notified through personal service of summons. It is not enough that they be deemed notified through constructive service.

This is a petition for review on certiorari<sup>[1]</sup> assailing the decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 101021, which denied the petition for annulment of judgment filed by petitioners. The petition before the appellate court sought to annul the judgment of the trial court that granted respondents' decree of adoption.<sup>[3]</sup>

The case originally stemmed from the adoption of Jose Maria Jed Lemuel Gregorio (Jéd) and Ana Maria Regina Gregorio (Regina) by Atty. Jose G. Castro (Jose). Jose is the estranged husband of Rosario Mata Castro (Rosario) and the father of Joanne Benedicta Charissima M. Castro (Joanne), also known by her baptismal name, "Maria Socorro M. Castro" and her nickname, "Jayrose."

Rosario alleged that she and Jose were married on August 5, 1962 in Laoag City. Their marriage had allegedly been troubled. They had a child, Rose Marie, who was born in 1963, but succumbed to congenital heart disease and only lived for nine days. Rosario allegedly left Jose after a couple of months because of the incompatibilities between them.<sup>[4]</sup>

Rosario and Jose, however, briefly reconciled in 1969. Rosario gave birth to Joanne a year later. She and Jose allegedly lived as husband and wife for about a year even if she lived in Manila and Jose stayed in Laoag City. Jose would visit her in Manila during weekends. Afterwards, they separated permanently because Rosario alleged that Jose had homosexual tendencies.<sup>[5]</sup> She insisted, however, that they "remained friends for fifteen (15) years despite their separation(.)"<sup>[6]</sup>

On August 1, 2000, Jose filed a petition<sup>[7]</sup> for adoption before the Regional Trial

Court of Batac, Ilocos Norte. In the petition, he alleged that Jed and Regina were his illegitimate children with Lilibeth Fernandez Gregorio (Lilibeth),<sup>[8]</sup> whom Rosario alleged was his erstwhile housekeeper.<sup>[9]</sup> At the time of the filing of the petition, Jose was 70 years old.<sup>[10]</sup>

According to the Home Study Report<sup>[11]</sup> conducted by the Social Welfare Officer of the trial court, Jose belongs to a prominent and respected family, being one of the three children of former Governor Mauricio Castro.

He was also a well-known lawyer in Manila and Ilocos Norte.<sup>[12]</sup> The report mentioned that he was once married to Rosario, but the marriage did not produce any children.<sup>[13]</sup> It also stated that he met and fell in love with Lilibeth in 1985, and Lilibeth was able to bear him two children, Jed on August 1987, and Regina on March 1989.<sup>[14]</sup> Under "Motivation for Adoption," the social welfare officer noted:

Since, he has no child with his married [sic] to Rosario Mata, he was not able to fulfill his dreams to parent a child. However, with the presence of his 2 illegitimate children will fulfill his dreams [sic] and it is his intention to legalize their relationship and surname. . . .<sup>[15]</sup>

At the time of the report, Jose was said to be living with Jed and Regina temporarily in Batac, Ilocos Norte.<sup>[16]</sup> The children have allegedly been in his custody since Lilibeth's death in July 1995.<sup>[17]</sup>

On October 16, 2000, the trial court approved the adoption,<sup>[18]</sup> having ruled that "[n]o opposition had been received by this Court from any person including the government which was represented by the Office of the Solicitor General."<sup>[19]</sup> A certificate of finality<sup>[20]</sup> was issued on February 9, 2006.

Meanwhile, on July 3, 2006, Rosario, through her lawyer, Atty. Rene V. Saguisag, filed a complaint for disbarment against Jose with the Integrated Bar of the Philippines.<sup>[21]</sup> In her complaint, she alleged that Jose had been remiss in providing support for their daughter, Joanne, for the past 36 years.<sup>[22]</sup> She alleged that she single-handedly raised and provided financial support to Joanne while Jose had been showering gifts to his driver and alleged lover, Larry R. Rentegrado (Larry), and even went to the extent of adopting Larry's two children, Jed and Regina, without her and Joanne's knowledge and consent.<sup>[23]</sup> She also alleged that Jose made blatant lies to the trial court by alleging that Jed and Regina were his illegitimate children with Larry's wife, Lilibeth, to cover up for his homosexual relationship with Larry.<sup>[24]</sup>

In his answer before the Integrated Bar of the Philippines, Jose denies being remiss in his fatherly duties to Joanne during her minority. He alleged that he always offered help, but it was often declined.<sup>[25]</sup> He also alleged that he adopted Jed and Regina because they are his illegitimate children. He denied having committed any of the falsification alluded to by Rosario. He also stated that he had suffered a stroke in 1998 that left him paralyzed. He alleged that his income had been diminished

because several properties had to be sold to pay for medical treatments.<sup>[26]</sup> He then implored the Integrated Bar of the Philippines to weigh on the case with "justice and equity."<sup>[27]</sup>

On October 8, 2006, Jose died in Laoag City, Ilocos Norte.<sup>[28]</sup>

On October 18, 2007, Rosario and Joanne filed a petition for annulment of judgment under Rule 47 of the Rules of Civil Procedure with the Court of Appeals, seeking to annul the October 16, 2000 decision of the trial court approving Jed and Regina's adoption.<sup>[29]</sup>

In their petition, Rosario and Joanne allege that they learned of the adoption sometime in 2005.<sup>[30]</sup> They allege that Rosario's affidavit of consent, marked by the trial court as "Exh. K,"<sup>[31]</sup> was fraudulent.<sup>[32]</sup> They also allege that Jed and Regina's birth certificates showed different sets of information, such as the age of their mother, Lilibeth, at the time she gave birth. They argue that one set of birth certificates states the father to be Jose and in another set of National Statistic Office certificates shows the father to be Larry, Jose's driver and alleged lover.<sup>[33]</sup> It was further alleged that Jed and Regina are not actually Jose's illegitimate children but the legitimate children of Lilibeth and Larry who were married at the time of their birth.<sup>[34]</sup>

On May 26, 2009, the Court of Appeals denied the petition.

While admittedly, no notice was given by the trial court to Rosario and Joanne of the adoption, the appellate court ruled that there is "no explicit provision in the rules that the spouse and legitimate child of the adopter . . . should be personally notified of the hearing."<sup>[35]</sup>

The appellate court "abhor[red] the mind baffling scheme employed by [Jose] in obtaining an adoption decree in favor of [his illegitimate children] to the prejudice of the interests of his legitimate heirs"<sup>[36]</sup> but stated that its hands were bound by the trial court decision that had already attained "finality and immutability."<sup>[37]</sup>

The appellate court also ruled that the alleged fraudulent information contained in the different sets of birth certificates required the determination of the identities of the persons stated therein and was, therefore, beyond the scope of the action for annulment of judgment. The alleged fraud was also perpetrated during the trial and could not be classified as extrinsic fraud, which is required in an action for annulment of judgment.<sup>[38]</sup>

When Rosario and Joanne's motion for reconsideration was denied on July 10, 2009,<sup>[39]</sup> they filed this petition.

The issue before this court is whether the Court of Appeals erred in denying the petition for annulment for failure of petitioners to (1) show that the trial court lacked jurisdiction and (2) show the existence of extrinsic fraud.

In their petition, petitioners argue that the appellate court erred in its application of

the law on extrinsic fraud as ground to annul a judgment.<sup>[40]</sup> They argue that because of the fabricated consent obtained by Jose and the alleged false information shown in the birth certificates presented as evidence before the trial court,<sup>[41]</sup> they were not given the opportunity to oppose the petition since the entire proceedings were concealed from them.<sup>[42]</sup>

Petitioners also argue that the appellate court misunderstood and misapplied the law on jurisdiction despite the denial of due process, notice, and non-inclusion of indispensable parties.<sup>[43]</sup> They argue that the adoption of illegitimate children requires the consent, not only of the spouse, but also the legitimate children 10 years or over of the adopter, and such consent was never secured from Joanne.<sup>[44]</sup>

Respondents, however, argue in their comment that petitioners could not have been deprived of their day in court since their interest was "amply protected by the participation and representation of the Solicitor General through the deputized public prosecutor."<sup>[45]</sup>

Respondents also argue that there was constructive notice through publication for three consecutive weeks in a newspaper of general circulation, which constitutes not only notice to them but also notice to the world of the adoption proceedings.<sup>[46]</sup> They argue that since the alleged fraud was perpetrated during the trial, it cannot be said to be extrinsic fraud but intrinsic fraud, which is not a ground for annulment of judgment.<sup>[47]</sup> They also argue that petitioners were not indispensable parties because adoption is an action *in rem* and, as such, the only indispensable party is the state.<sup>[48]</sup>

The petition is granted.

### **Annulment of judgment under Rule 47 of the Rules of Civil Procedure**

Under Rule 47, Section 1 of the Rules of Civil Procedure, a party may file an action with the Court of Appeals to annul judgments or final orders and resolutions in civil actions of Regional Trial Courts. This remedy will only be available if "the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner."<sup>[49]</sup>

In *Dare Adventure Farm Corporation v. Court of Appeals*:<sup>[50]</sup>

*A petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought, to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud. Yet, the remedy, being exceptional in character, is not allowed to be so easily and readily abused by parties aggrieved by the final judgments, orders or resolutions. The Court has thus instituted safeguards by limiting the grounds for the annulment to lack of jurisdiction and extrinsic fraud, and by prescribing in Section 1 of Rule 47 of the Rules of Court that the petitioner should show that the ordinary*

remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper.

The attitude of judicial reluctance towards the annulment of a judgment, final order or final resolution is understandable, for the remedy disregards the time-honored doctrine of immutability and unalterability of final judgments, a solid corner stone in the dispensation of justice by the courts. The doctrine of immutability and unalterability serves a two-fold purpose, namely: (a) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and (b) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why the courts exist. As to the first, a judgment that has acquired finality becomes immutable and unalterable and is no longer to be modified in any respect even if the modification is meant to correct an erroneous conclusion of fact or of law, and whether the modification is made by the court that rendered the decision or by the highest court of the land. As to the latter, controversies cannot drag on indefinitely because fundamental considerations of public policy and sound practice demand that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time.<sup>[51]</sup> (Emphasis supplied)

Because of the exceptional nature of the remedy, there are only two grounds by which annulment of judgment may be availed of: extrinsic fraud, which must be brought four years from discovery, and lack of jurisdiction, which must be brought before it is barred by estoppel or laches.<sup>[52]</sup>

Lack of jurisdiction under this rule means lack of jurisdiction over the nature of the action or subject matter, or lack of jurisdiction over the parties.<sup>[53]</sup> Extrinsic fraud, on the other hand, is "[that which] prevents a party from having a trial or from presenting his entire case to the court, or [that which] operates upon matters pertaining not to the judgment itself but to the manner in which it is procured."<sup>[54]</sup>

The grant of adoption over respondents should be annulled as the trial court did not validly acquire jurisdiction over the proceedings, and the favorable decision was obtained through extrinsic fraud.

### **Jurisdiction over adoption proceedings vis-a-vis the law on adoption**

Petitioners argue that they should have been given notice by the trial court of the adoption, as adoption laws require their consent as a requisite in the proceedings.

Petitioners are correct.

It is settled that "the jurisdiction of the court is determined by the statute in force at the time of the commencement of the action."<sup>[55]</sup> As Jose filed the petition for adoption on August 1, 2000, it is Republic Act No. 8552<sup>[56]</sup> which applies over the