

FIRST DIVISION

[G.R. No. 182760, April 10, 2013]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ROBERT P. NARCEDA, RESPONDENT.

R E S O L U T I O N

SERENO, C.J.:

The present case stems from a Petition for Review^[1] filed by the Republic of the Philippines (petitioner), praying for the reversal of the Decision^[2] of the Court of Appeals (CA) dated 14 November 2007 and its subsequent Resolution^[3] dated 29 April 2008. The CA dismissed the appeal of petitioner, because it supposedly lacked jurisdiction to decide the matter. It held that the Decision^[4] of the Regional Trial Court of Balaoan, La Union (RTC) declaring the presumptive death of Marina B. Narceda (Marina) was immediately final and executory, "because by express provision of law, the judgment of the RTC is not appealable."^[5]

Robert P. Narceda (respondent) married Marina on 22 July 1987. A reading of the Marriage Contract^[6] he presented will reveal that at the time of their wedding, Marina was only 17 years and 4 months old.

According to respondent, Marina went to Singapore sometime in 1994 and never returned since.^[7] There was never any communication between them. He tried to look for her, but he could not find her. Several years after she left, one of their town mates in Luna, La Union came home from Singapore and told him that the last time she saw his wife, the latter was already living with a Singaporean husband.^[8]

In view of her absence and his desire to remarry,^[9] respondent filed with the RTC on 16 May 2002 a Petition for a judicial declaration of the presumptive death and/or absence of Marina.^[10]

The RTC granted respondent's Petition in a Decision^[11] dated 5 May 2005, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court hereby renders judgment declaring the PRESUMPTIVE DEATH of MARINA B. NARCEDA for all legal intents and purposes of law as provided for in Rule 131, Sec. 3(w-4), Rules of Court, without prejudice to the effect of re-appearance of the absent spouse.

SO ORDERED.^[12]

Petitioner, through the Office of the Solicitor General (OSG), appealed the foregoing Decision to the CA. According to petitioner, respondent failed to conduct a search for his missing wife with the diligence required by law and enough to give rise to a "well-founded" belief that she was dead.^[13]

The CA dismissed the appeal ruling that the hearing of a petition for the declaration of presumptive death is a summary proceeding under the Family Code and is thus governed by Title XI thereof.^[14] Article 247 of the Family Code provides that the judgment of the trial court in summary court proceedings shall be immediately final and executory. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DISMISSED OUTRIGHT** on the **GROUND OF LACK OF JURISDICTION**, and this Court hereby reiterates the fact that the **RTC Decision is immediately final and executory** because by express provision of law, the **judgment of the RTC is not appealable**.

SO ORDERED.^[15]

The OSG filed a Motion for Reconsideration, but it was likewise denied through the CA's 29 April 2008 Resolution.^[16]

Petitioner now comes to this Court, through Rule 45, alleging as follows:

1. The Court of Appeals erred in dismissing the Petition on the ground of lack of jurisdiction.^[17]
2. Respondent has failed to establish a well-founded belief that his absentee spouse is dead.^[18]

The OSG insists that the CA had jurisdiction to entertain the Petition, because respondent had failed to establish a well-founded belief that his absentee spouse was dead.^[19] The OSG cites *Republic v. CA (Jomoc)*,^[20] in which this Court ruled:

By the trial court's citation of Article 41 of the Family Code, it is gathered that the petition of Apolinaria Jomoc to have her absent spouse declared presumptively dead *had for its purpose her desire to contract a valid subsequent marriage. Ergo*, the petition for that purpose is a "*summary proceeding*," following above-quoted Art. 41, paragraph 2 of the Family Code.

x x x x

there is no doubt that the petition of Apolinaria Jomoc required, and is, therefore, a summary proceeding under the Family Code, not a special proceeding under the Revised Rules of Court appeal for which calls for the filing of a Record on Appeal. It being a summary ordinary proceeding,

the filing of a Notice of Appeal from the trial court's order sufficed.
(Emphasis in the original)^[21]

The CA points out, however, that because the resolution of a petition for the declaration of presumptive death requires a summary proceeding, the procedural rules to be followed are those enumerated in Title XI of the Family Code. Articles 238, 247, and 253 thereof read:

Art. 238. Until modified by the Supreme Court, the procedural rules provided for in this Title shall apply as regards separation in fact between husband and wife, abandonment by one of the other, and incidents involving parental authority.

x x x x

Art. 247. The judgment of the court shall be immediately final and executory.

x x x x

ART. 253. The foregoing rules in Chapters 2 and 3 hereof shall likewise govern summary proceedings filed under Articles 41, 51, 69, 73, 96, 124 and 217, insofar as they are applicable.

The appellate court argues that there is no reglementary period within which to perfect an appeal in summary judicial proceedings under the Family Code, because the judgments rendered thereunder, by express provision of Article 247, are immediately final and executory upon notice to the parties.^[22] In support of its stance, it cited *Republic v. Bermudez-Lorino (Bermudez-Lorino)*,^[23] in which this Court held:

In Summary Judicial Proceedings under the Family Code, there is no reglementary period within which to perfect an appeal, precisely because judgments rendered thereunder, by express provision of Section 247, Family Code, *supra*, are "immediately final and executory." It was erroneous, therefore, on the part of the RTC to give due course to the Republic's appeal and order the transmittal of the entire records of the case to the Court of Appeals.

An appellate court acquires no jurisdiction to review a judgment which, by express provision of law, is immediately final and executory. As we have said in *Veloria vs. Comelec*, "the right to appeal is not a natural right nor is it a part of due process, for it is merely a statutory privilege." Since, by express mandate of Article 247 of the Family Code, all judgments rendered in summary judicial proceedings in Family Law are "immediately final and executory," the right to appeal was not granted to any of the parties therein. The Republic of the Philippines, as oppositor in the petition for declaration of presumptive death, should not be treated