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SECOND DIVISION

[G.R. No. 196049, June 26, 2013]

MINORU FUJIKI, PETITIONER, VS. MARIA PAZ GALELA MARINAY, SHINICHI MAEKARA, LOCAL CIVIL REGISTRAR OF QUEZON CITY, AND THE ADMINISTRATOR AND CIVIL REGISTRAR GENERAL OF THE NATIONAL STATISTICS OFFICE, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

This is a direct recourse to this Court from the Regional Trial Court (RTC), Branch 107, Quezon City, through a petition for review on *certiorari* under Rule 45 of the Rules of Court on a pure question of law. The petition assails the Order[1] dated 31 January 2011 of the RTC in Civil Case No. Q-11-68582 and its Resolution dated 2 March 2011 denying petitioner's Motion for Reconsideration. The RTC dismissed the petition for "Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage)" based on improper venue and the lack of personality of petitioner, Minoru Fujiki, to file the petition.

The Facts

Petitioner Minoru Fujiki (Fujiki) is a Japanese national who married respondent Maria Paz Galela Marinay (Marinay) in the Philippines[2] on 23 January 2004. The marriage did not sit well with petitioner's parents. Thus, Fujiki could not bring his wife to Japan where he resides. Eventually, they lost contact with each other.

In 2008, Marinay met another Japanese, Shinichi Maekara (Maekara). Without the first marriage being dissolved, Marinay and Maekara were married on 15 May 2008 in Quezon City, Philippines. Maekara brought Marinay to Japan. However, Marinay allegedly suffered physical abuse from Maekara. She left Maekara and started to contact Fujiki.[3]

Fujiki and Marinay met in Japan and they were able to reestablish their relationship. In 2010, Fujiki helped Marinay obtain a judgment from a family court in Japan which declared the marriage between Marinay and Maekara void on the ground of bigamy.[4] On 14 January 2011, Fujiki filed a petition in the RTC entitled: "Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage)." Fujiki prayed that (1) the Japanese Family Court judgment be recognized; (2) that the bigamous marriage between Marinay and Maekara be declared void *ab initio* under Articles 35(4) and 41 of the Family Code of the Philippines;[5] and (3) for the RTC to direct the Local Civil Registrar of Quezon City to annotate the Japanese Family Court

judgment on the Certificate of Marriage between Marinay and Maekara and to endorse such annotation to the Office of the Administrator and Civil Registrar General in the National Statistics Office (NSO).[6]

The Ruling of the Regional Trial Court

A few days after the filing of the petition, the RTC immediately issued an Order dismissing the petition and withdrawing the case from its active civil docket.[7] The RTC cited the following provisions of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC):

> Sec. 2. Petition for declaration of absolute nullity of void marriages. –
>
> (a) *Who may file*. – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.
>
> x x x x
>
> Sec. 4. *Venue*. – The petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing, or in the case of a non-resident respondent, where he may be found in the Philippines, at the election of the petitioner. x x x

The RTC ruled, without further explanation, that the petition was in "gross violation" of the above provisions. The trial court based its dismissal on Section 5(4) of A.M. No. 02-11-10-SC which provides that "[f]ailure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition."[8] Apparently, the RTC took the view that only "the husband or the wife," in this case either Maekara or Marinay, can file the petition to declare their marriage void, and not Fujiki.

Fujiki moved that the Order be reconsidered. He argued that A.M. No. 02-11-10-SC contemplated ordinary civil actions for declaration of nullity and annulment of marriage. Thus, A.M. No. 02-11-10-SC does not apply. A petition for recognition of foreign judgment is a special proceeding, which "seeks to establish a status, a right or a particular fact,"[9] and not a civil action which is "for the enforcement or protection of a right, or the prevention or redress of a wrong."[10] In other words, the petition in the RTC sought to establish (1) the status and concomitant rights of Fujiki and Marinay as husband and wife and (2) the fact of the rendition of the Japanese Family Court judgment declaring the marriage between Marinay and Maekara as void on the ground of bigamy. The petitioner contended that the Japanese judgment was consistent with Article 35(4) of the Family Code of the Philippines[11] on bigamy and was therefore entitled to recognition by Philippine courts.[12]

In any case, it was also Fujiki's view that A.M. No. 02-11-10-SC applied only to void marriages under Article 36 of the Family Code on the ground of psychological incapacity.[13] Thus, Section 2(a) of A.M. No. 02-11-10-SC provides that "a petition

for declaration of absolute nullity of void marriages may be filed solely by the husband or the wife." To apply Section 2(a) in bigamy would be absurd because only the guilty parties would be permitted to sue. In the words of Fujiki, "[i]t is not, of course, difficult to realize that the party interested in having a bigamous marriage declared a nullity would be the husband in the prior, pre-existing marriage."[14] Fujiki had material interest and therefore the personality to nullify a bigamous marriage.

Fujiki argued that Rule 108 (Cancellation or Correction of Entries in the Civil Registry) of the Rules of Court is applicable. Rule 108 is the "procedural implementation" of the Civil Register Law (Act No. 3753)[15] in relation to Article 413 of the Civil Code.[16] The Civil Register Law imposes a duty on the "successful petitioner for divorce or annulment of marriage to send a copy of the final decree of the court to the local registrar of the municipality where the dissolved or annulled marriage was solemnized."[17] Section 2 of Rule 108 provides that entries in the civil registry relating to "marriages," "judgments of annulments of marriage" and "judgments declaring marriages void from the beginning" are subject to cancellation or correction.[18] The petition in the RTC sought (among others) to annotate the judgment of the Japanese Family Court on the certificate of marriage between Marinay and Maekara.

Fujiki's motion for reconsideration in the RTC also asserted that the trial court "gravely erred" when, on its own, it dismissed the petition based on improper venue. Fujiki stated that the RTC may be confusing the concept of venue with the concept of jurisdiction, because it is lack of jurisdiction which allows a court to dismiss a case on its own. Fujiki cited *Dacoycoy v. Intermediate Appellate Court*[19] which held that the "trial court cannot pre-empt the defendant's prerogative to object to the improper laying of the venue by motu proprio dismissing the case."[20] Moreover, petitioner alleged that the trial court should not have "immediately dismissed" the petition under Section 5 of A.M. No. 02-11-10-SC because he substantially complied with the provision.

On 2 March 2011, the RTC resolved to deny petitioner's motion for reconsideration. In its Resolution, the RTC stated that A.M. No. 02-11-10-SC applies because the petitioner, in effect, prays for a decree of absolute nullity of marriage.[21] The trial court reiterated its two grounds for dismissal, i.e. lack of personality to sue and improper venue under Sections 2(a) and 4 of A.M. No. 02-11-10-SC. The RTC considered Fujiki as a "third person"[22] in the proceeding because he "is not the husband in the decree of divorce issued by the Japanese Family Court, which he now seeks to be judicially recognized, x x x."[23] On the other hand, the RTC did not explain its ground of impropriety of venue. It only said that "[a]lthough the Court cited Sec. 4 (Venue) x x x as a ground for dismissal of this case[,] it should be taken together with the other ground cited by the Court x x x which is Sec. 2(a) x x x."[24]

The RTC further justified its *motu proprio* dismissal of the petition based on *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental.*[25] The Court in Braza ruled that "[i]n a special proceeding for correction of entry under Rule 108 (Cancellation or Correction of Entries in the Original Registry), the trial court has no jurisdiction to nullify marriages x x x."[26] Braza emphasized that the "validity of

marriages as well as legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through a collateral attack such as [a] petition [for correction of entry] x x x."[27]

The RTC considered the petition as a collateral attack on the validity of marriage between Marinay and Maekara. The trial court held that this is a "jurisdictional ground" to dismiss the petition.[28] Moreover, the verification and certification against forum shopping of the petition was not authenticated as required under Section 5[29] of A.M. No. 02-11-10-SC. Hence, this also warranted the "immediate dismissal" of the petition under the same provision.

The Manifestation and Motion of the Office of the Solicitor General and the Letters of Marinay and Maekara

On 30 May 2011, the Court required respondents to file their comment on the petition for review.[30] The public respondents, the Local Civil Registrar of Quezon City and the Administrator and Civil Registrar General of the NSO, participated through the Office of the Solicitor General. Instead of a comment, the Solicitor General filed a Manifestation and Motion.[31]

The Solicitor General agreed with the petition. He prayed that the RTC's "pronouncement that the petitioner failed to comply with x x x A.M. No. 02-11-10-SC x x x be set aside" and that the case be reinstated in the trial court for further proceedings.[32] The Solicitor General argued that Fujiki, as the spouse of the first marriage, is an injured party who can sue to declare the bigamous marriage between Marinay and Maekara void. The Solicitor General cited *Juliano-Llave v. Republic*[33] which held that Section 2(a) of A.M. No. 02-11-10-SC does not apply in cases of bigamy. In *Juliano-Llave*, this Court explained:

> [t]he subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[34]

The Solicitor General contended that the petition to recognize the Japanese Family Court judgment may be made in a Rule 108 proceeding.[35] In *Corpuz v. Santo Tomas*,[36] this Court held that "[t]he recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right

of a party or a particular fact."[37] While *Corpuz* concerned a foreign divorce decree, in the present case the Japanese Family Court judgment also affected the civil status of the parties, especially Marinay, who is a Filipino citizen.

The Solicitor General asserted that Rule 108 of the Rules of Court is the procedure to record "[a]cts, events and judicial decrees concerning the civil status of persons" in the civil registry as required by Article 407 of the Civil Code. In other words, "[t]he law requires the entry in the civil registry of judicial decrees that produce legal consequences upon a person's legal capacity and status x x x."[38] The Japanese Family Court judgment directly bears on the civil status of a Filipino citizen and should therefore be proven as a fact in a Rule 108 proceeding.

Moreover, the Solicitor General argued that there is no jurisdictional infirmity in assailing a void marriage under Rule 108, citing *De Castro v. De Castro*[39] and *Niñal v. Bayadog*[40] which declared that "[t]he validity of a void marriage may be collaterally attacked."[41]

Marinay and Maekara individually sent letters to the Court to comply with the directive for them to comment on the petition.[42] Maekara wrote that Marinay concealed from him the fact that she was previously married to Fujiki.[43] Maekara also denied that he inflicted any form of violence on Marinay.[44] On the other hand, Marinay wrote that she had no reason to oppose the petition.[45] She would like to maintain her silence for fear that anything she say might cause misunderstanding between her and Fujiki.[46]

The Issues

Petitioner raises the following legal issues:

(1) Whether the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) is applicable.

(2) Whether a husband or wife of a prior marriage can file a petition to recognize a foreign judgment nullifying the subsequent marriage between his or her spouse and a foreign citizen on the ground of bigamy.

(3) Whether the Regional Trial Court can recognize the foreign judgment in a proceeding for cancellation or correction of entries in the Civil Registry under Rule 108 of the Rules of Court.

The Ruling of the Court

We grant the petition.

The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) does not apply in a petition to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country. Moreover, in *Juliano-Llave v. Republic*,[47] this Court held that the rule in A.M. No. 02-11-10-SC that only the husband or wife can file a declaration of nullity or annulment of marriage "does not apply if the reason behind