

## SECOND DIVISION

[ G.R. No. 201061, July 03, 2013 ]

**SALLY GO-BANGAYAN, PETITIONER, VS. BENJAMIN BANGAYAN,  
JR., RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

Before the Court is a petition for review<sup>[1]</sup> assailing the 17 August 2011 Decision<sup>[2]</sup> and the 14 March 2012 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. CV No. 94226.

#### The Antecedent Facts

On 15 March 2004, Benjamin Bangayan, Jr. (Benjamin) filed a petition for declaration of a non-existent marriage and/or declaration of nullity of marriage before the Regional Trial Court of Manila, Branch 43 (trial court). The case was docketed as Civil Case No. 04109401. Benjamin alleged that on 10 September 1973, he married Azucena Alegre (Azucena) in Caloocan City. They had three children, namely, Rizalyn, Emmamylin, and Benjamin III.

In 1979, Benjamin developed a romantic relationship with Sally Go-Bangayan (Sally) who was a customer in the auto parts and supplies business owned by Benjamin's family. In December 1981, Azucena left for the United States of America. In February 1982, Benjamin and Sally lived together as husband and wife. Sally's father was against the relationship. On 7 March 1982, in order to appease her father, Sally brought Benjamin to an office in Santolan, Pasig City where they signed a purported marriage contract. Sally, knowing Benjamin's marital status, assured him that the marriage contract would not be registered.

Benjamin and Sally's cohabitation produced two children, Bernice and Bentley. During the period of their cohabitation, they acquired the following real properties:

- (1) property under Transfer Certificate of Title (TCT) No. 61722 registered in the names of Benjamin and Sally as spouses;
- (2) properties under TCT Nos. 61720 and 190860 registered in the name of Benjamin, married to Sally;
- (3) properties under Condominium Certificate of Title (CCT) Nos. 8782 and 8783 registered in the name of Sally, married to Benjamin; and
- (4) properties under TCT Nos. N-193656 and 253681 registered in the name of Sally as a single individual.

The relationship of Benjamin and Sally ended in 1994 when Sally left for Canada, bringing Bernice and Bentley with her. She then filed criminal actions for bigamy and falsification of public documents against Benjamin, using their simulated marriage contract as evidence. Benjamin, in turn, filed a petition for declaration of a non-existent marriage and/or declaration of nullity of marriage before the trial court on the ground that his marriage to Sally was bigamous and that it lacked the formal requisites to a valid marriage. Benjamin also asked the trial court for the partition of the properties he acquired with Sally in accordance with Article 148 of the Family Code, for his appointment as administrator of the properties during the pendency of the case, and for the declaration of Bernice and Bentley as illegitimate children. A total of 44 registered properties became the subject of the partition before the trial court. Aside from the seven properties enumerated by Benjamin in his petition, Sally named 37 properties in her answer.

After Benjamin presented his evidence, Sally filed a demurrer to evidence which the trial court denied. Sally filed a motion for reconsideration which the trial court also denied. Sally filed a petition for *certiorari* before the Court of Appeals and asked for the issuance of a temporary restraining order and/or injunction which the Court of Appeals never issued. Sally then refused to present any evidence before the trial court citing the pendency of her petition before the Court of Appeals. The trial court gave Sally several opportunities to present her evidence on 28 February 2008, 10 July 2008, 4 September 2008, 11 September 2008, 2 October 2008, 23 October 2008, and 28 November 2008. Despite repeated warnings from the trial court, Sally still refused to present her evidence, prompting the trial court to consider the case submitted for decision.

### **The Decision of the Trial Court**

In a Decision<sup>[4]</sup> dated 26 March 2009, the trial court ruled in favor of Benjamin. The trial court gave weight to the certification dated 21 July 2004 from the Pasig Local Civil Registrar, which was confirmed during trial, that only Marriage License Series Nos. 6648100 to 6648150 were issued for the month of February 1982 and the purported Marriage License No. N-07568 was not issued to Benjamin and Sally.<sup>[5]</sup> The trial court ruled that the marriage was not recorded with the local civil registrar and the National Statistics Office because it could not be registered due to Benjamin's subsisting marriage with Azucena.

The trial court ruled that the marriage between Benjamin and Sally was not bigamous. The trial court ruled that the second marriage was void not because of the existence of the first marriage but because of other causes, particularly, the lack of a marriage license. Hence, bigamy was not committed in this case. The trial court did not rule on the issue of the legitimacy status of Bernice and Bentley because they were not parties to the case. The trial court denied Sally's claim for spousal support because she was not married to Benjamin. The trial court likewise denied support for Bernice and Bentley who were both of legal age and did not ask for support.

On the issue of partition, the trial court ruled that Sally could not claim the 37 properties she named in her answer as part of her conjugal properties with Benjamin. The trial court ruled that Sally was not legally married to Benjamin. Further, the 37 properties that Sally was claiming were owned by Benjamin's

parents who gave the properties to their children, including Benjamin, as advance inheritance. The 37 titles were in the names of Benjamin and his brothers and the phrase "married to Sally Go" was merely descriptive of Benjamin's civil status in the title. As regards the two lots under TCT Nos. 61720 and 190860, the trial court found that they were bought by Benjamin using his own money and that Sally failed to prove any actual contribution of money, property or industry in their purchase. The trial court found that Sally was a registered co-owner of the lots covered by TCT Nos. 61722, N-193656, and 253681 as well as the two condominium units under CCT Nos. 8782 and 8783. However, the trial court ruled that the lot under TCT No. 61722 and the two condominium units were purchased from the earnings of Benjamin alone. The trial court ruled that the properties under TCT Nos. 61722, 61720, and 190860 and CCT Nos. 8782 and 8783 were part of the conjugal partnership of Benjamin and Azucena, without prejudice to Benjamin's right to dispute his conjugal state with Azucena in a separate proceeding.

The trial court further ruled that Sally acted in bad faith because she knew that Benjamin was married to Azucena. Applying Article 148 of the Family Code, the trial court forfeited Sally's share in the properties covered under TCT Nos. N-193656 and 253681 in favor of Bernice and Bentley while Benjamin's share reverted to his conjugal ownership with Azucena.

The dispositive portion of the trial court's decision reads:

ACCORDINGLY, the marriage of BENJAMIN BANGAYAN, JR. and SALLY S. GO on March 7, 1982 at Santolan, Pasig, Metro Manila is hereby declared NULL and VOID AB INITIO. It is further declared NON-EXISTENT.

Respondent's claim as co-owner or conjugal owner of the thirty-seven (37) properties under TCT Nos. 17722, 17723, 17724, 17725, 126397, RT-73480, and RT-86821; in Manila, TCT Nos. 188949, 188950, 188951, 193035, 194620, 194621, 194622, 194623, 194624, 194625, 194626, 194627, 194628, 194629, 194630, 194631, 194632, 194633, 194634, 194635, 194636, 194637, 194638, 194639, 198651, 206209, 206210, 206211, 206213 and 206215 is DISMISSED for lack of merit. The registered owners, namely: Benjamin B. Bangayan, Jr., Roberto E. Bangayan, Ricardo B. Bangayan and Rodrigo B. Bangayan are the owners to the exclusion of "Sally Go" Consequently, the Registry of Deeds for Quezon City and Manila are directed to delete the words "*married to Sally Go*" from these thirty[-]seven (37) titles.

Properties under TCT Nos. 61722, 61720 and 190860, CCT Nos. 8782 and 8783 are properties acquired from petitioner's money without contribution from respondent, hence, these are properties of the petitioner and his lawful wife. Consequently, petitioner is appointed the administrator of these five (5) properties. Respondent is ordered to submit an accounting of her collections of income from these five (5) properties within thirty (30) days from notice hereof. Except for lot under TCT No. 61722, respondent is further directed within thirty (30) days from notice hereof to turn over and surrender control and possession of these properties including the documents of title to the petitioner.

On the properties under TCT Nos. N-193656 and N-253681, these properties are under co-ownership of the parties shared by them equally. However, the share of respondent is declared FORFEITED in favor of Bernice Go Bangayan and Bentley Go Bangayan. The share of the petitioner shall belong to his conjugal ownership with Azucena Alegre. The liquidation, partition and distribution of these two (2) properties shall be further processed pursuant to Section 21 of A.M. No. 02-11-10 of March 15, 2003.

Other properties shall be adjudicated in a later proceeding pursuant to Section 21 of A.M. No. 02-11-10.

Respondent's claim of spousal support, children support and counterclaims are DISMISSED for lack of merit. Further, no declaration of the status of the parties' children.

No other relief granted.

Furnish copy of this decision to the parties, their counsels, the Trial Prosecutor, the Solicitor General and the Registry of Deeds in Manila, Quezon City and Caloocan.

SO ORDERED.<sup>[6]</sup>

Sally filed a Verified and Vigorous Motion for Inhibition with Motion for Reconsideration. In its Order dated 27 August 2009,<sup>[7]</sup> the trial court denied the motion. Sally appealed the trial court's decision before the Court of Appeals.

### **The Decision of the Court of Appeals**

In its 17 August 2011 Decision, the Court of Appeals partly granted the appeal. The Court of Appeals ruled that the trial court did not err in submitting the case for decision. The Court of Appeals noted that there were six resettings of the case, all made at the instance of Sally, for the initial reception of evidence, and Sally was duly warned to present her evidence on the next hearing or the case would be deemed submitted for decision. However, despite the warning, Sally still failed to present her evidence. She insisted on presenting Benjamin who was not around and was not subpoenaed despite the presence of her other witnesses.

The Court of Appeals rejected Sally's allegation that Benjamin failed to prove his action for declaration of nullity of marriage. The Court of Appeals ruled that Benjamin's action was based on his prior marriage to Azucena and there was no evidence that the marriage was annulled or dissolved before Benjamin contracted the second marriage with Sally. The Court of Appeals ruled that the trial court committed no error in declaring Benjamin's marriage to Sally null and void.

The Court of Appeals ruled that the property relations of Benjamin and Sally was governed by Article 148 of the Family Code. The Court of Appeals ruled that only the properties acquired by the parties through their actual joint contribution of money, property or industry shall be owned by them in common in proportion to their respective contribution. The Court of Appeals ruled that the 37 properties being

claimed by Sally rightfully belong to Benjamin and his siblings.

As regards the seven properties claimed by both parties, the Court of Appeals ruled that only the properties under TCT Nos. 61720 and 190860 registered in the name of Benjamin belong to him exclusively because he was able to establish that they were acquired by him solely. The Court of Appeals found that the properties under TCT Nos. N-193656 and 253681 and under CCT Nos. 8782 and 8783 were exclusive properties of Sally in the absence of proof of Benjamin's actual contribution in their purchase. The Court of Appeals ruled that the property under TCT No. 61722 registered in the names of Benjamin and Sally shall be owned by them in common, to be shared equally. However, the share of Benjamin shall accrue to the conjugal partnership under his existing marriage with Azucena while Sally's share shall accrue to her in the absence of a clear and convincing proof of bad faith.

Finally, the Court of Appeals ruled that Sally failed to present clear and convincing evidence that would show bias and prejudice on the part of the trial judge that would justify his inhibition from the case.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the instant appeal is PARTLY GRANTED. The assailed Decision and Order dated March 26, 2009 and August 27, 2009, respectively, of the Regional Trial Court of Manila, Branch 43, in Civil Case No. 04-109401 are hereby AFFIRMED with modification declaring TCT Nos. 61720 and 190860 to be exclusively owned by the petitioner-appellee while the properties under TCT Nos. N-193656 and 253681 as well as [CCT] Nos. 8782 and 8783 shall be solely owned by the respondent-appellant. On the other hand, TCT No. 61722 shall be owned by them and common and to be shared equally but the share of the petitioner-appellee shall accrue to the conjugal partnership under his first marriage while the share of respondent-appellant shall accrue to her. The rest of the decision stands.

SO ORDERED. <sup>[8]</sup>

Sally moved for the reconsideration of the Court of Appeals' decision. In its 14 March 2012 Resolution, the Court of Appeals denied her motion.

Hence, the petition before this Court.

### **The Issues**

Sally raised the following issues before this Court:

- (1) Whether the Court of Appeals committed a reversible error in affirming the trial court's ruling that Sally had waived her right to present evidence;
- (2) Whether the Court of Appeals committed a reversible error in