

FIRST DIVISION

[G.R. No. 172198, June 16, 2009]

MA. LOURDES C. DE CASTRO, PETITIONER, VS. CRISPINO DE CASTRO, JR., OFFICE OF THE CITY PROSECUTOR FOR MANILA, AND THE OFFICE OF THE SOLICITOR GENERAL, RESPONDENTS.

DECISION

PUNO, C.J.:

This is a petition for review on certiorari of the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 81856, dated April 4, 2006, which found no grave abuse of discretion in the Orders dated August 20, 2003 and December 12, 2003, issued by Acting Judge Marvic Balisi-Umali of the Regional Trial Court (RTC) of Manila in Civil Case No. 96-79135 for the declaration of nullity of marriage.

First, the facts:

Petitioner Ma. Lourdes C. De Castro and private respondent Crispino De Castro, Jr. were married on January 1, 1971. In 1996, private respondent filed a petition^[2] for the declaration of nullity of their marriage before the RTC of Manila.

In his petition, private respondent alleged that he was impulsive and reckless in his youth; that while still in school, he impregnated petitioner, and they got married so as not to expose both their families to further embarrassment; that their quarrels intensified during the marriage; that due to immaturity and inability to cope with their problems, he abandoned his family many times and became involved in affairs with different women. He further alleged that they tried to save their marriage through counseling, but to no avail. In 1992, he left the family home for good, and lived with another woman with whom he had three illegitimate children.

For failure of petitioner to file her Answer to the petition and upon motion of private respondent, the case was set for hearing and private respondent testified. Further, he presented psychiatrist, Dr. Cecilia Albaran, as an expert witness. He then rested his case, with no opposition from the public prosecutor.

On June 22, 1998, the RTC annulled the marriage between petitioner and private respondent, viz.:

After a thorough review of the evidence adduced and the testimonies of petitioner [herein private respondent] and Dra. Cecilia Albaran, the Court finds and so holds that both parties are psychologically incapacitated to enter into marriage. The Court, therefore, is convinced that from the evidence presented, there appears sufficient basis to declare that herein parties are psychologically incapacitated to enter into marriage, which,

under the provisions of the Family Code, is a valid ground for the annulment of marriage.

WHEREFORE, premises considered, Decision is hereby rendered declaring the marriage entered into by the parties herein on January 1, 1971 at Santuario de San Jose, Greenhills, Mandaluyong City null and void and of no legal effect.

The Local Civil Registrar of Mandaluyong City is hereby directed to cancel from the Registry of Marriages the marriage contract entered into by the parties herein on January 1, 1971 at Mandaluyong City.

Let a copy of this Decision be furnished the Local Civil Registrar of Mandaluyong City for proper annotation and recording, as required by law; the Local Civil Registrar of Manila and the National Census and Statistics Office for record purposes.

SO ORDERED.^[3]

On August 3, 1998, petitioner filed a Motion for Leave^[4] to file an Omnibus Motion^[5] seeking a new trial or reconsideration of the June 22, 1998 Decision. She alleged that she was misled and prevented from participating in the annulment case by private respondent, because of his promise of continuous adequate support for the children, and the transfer of title to their three children of their family home, including its lot, located in Blue Ridge Subdivision, Libis, Quezon City and another piece of real property in Tagaytay.

The trial court granted the omnibus motion in an Order dated December 11, 1998. In the Order, petitioner was required to submit a question-and-answer form affidavit which would constitute her direct testimony. Further, the cross-examination of petitioner and her witnesses was scheduled on February 4, 1999.

On December 27, 1999, petitioner filed her Answer. She controverted the allegations of private respondent. She alleged that they were both psychologically and emotionally prepared for marriage; that, except for a few slightly turbulent months in 1981, their life as a married couple was smooth and blissful and remained so for twenty years, or until 1990; that they were well adapted to each other, and their quarrels were few and far between; that the communication lines between them were always open and they were able to settle their differences through discussion; that private respondent was a devoted and faithful husband, and did not abandon them repeatedly; and that petitioner knew of only one extramarital affair of private respondent.

The trial court conducted hearings on petitioner's (1) application for support *pendente lite* and (2) urgent motion for judicial deposit of petitioner's [herein private respondent's] separation benefits,^[6] in light of his retirement/separation from employment at Petron Corporation, effective August 31, 2000; and private respondent's (3) motion for judicial approval of the alleged voluntary agreement on the dissolution of the conjugal partnership of gains and partition of the conjugal properties.^[7] The first has been resolved,^[8] but the second and third remain

pending.

On July 17, 2002, petitioner was to present her first witness. The trial court reset the hearing to August 21, 2002 as there was no return of the notice sent to private respondent and his counsel.^[9]

On August 21, 2002, petitioner started her direct testimony. However, considering the length of her testimony, the continuance of her direct examination was set on October 2, 2002.

On September 30, 2002, private respondent moved to reset the October 2, 2002 hearing to November 13, 2002, due to his trip to Europe.^[10]

On November 8, 2002, private respondent again moved to reset the November 13, 2002 hearing to December 11, 2002 or at the earliest possible date as the calendar of the trial court would allow, for the reason that his counsel was "out of the country for important personal reasons and cannot attend the hearing."^[11]

During the hearing on December 11, 2002, petitioner's counsel moved for its cancellation because of the absence of petitioner who was at that time attending a very urgent business meeting in connection with her volunteer work for Bantay Bata. The hearing was reset to February 6, 2003.^[12] However, the records reveal that no hearing was conducted on said date.

On the next hearing of February 20, 2003, petitioner's counsel again moved for the resetting of the hearing to March 27, 2003.^[13]

On March 27, 2003, the hearing was reset to April 10, 2003 because the Presiding Judge was on official leave.^[14]

On April 10, 2003, the hearing was again reset to May 8, 2003, by agreement of the parties.^[15]

On May 8, 2003, the hearing was likewise reset to July 25, 2003 because of the absence of counsel of both petitioner and private respondent.^[16]

During the hearing on July 25, 2003, petitioner's counsel moved to reset the hearing because of the absence of petitioner who was then in the U.S. helping her daughter in taking care of her newborn baby. The trial court then ordered the resetting of the hearing to August 20, 2003 for the last time, *viz.*:

As prayed for by respondent's counsel for the cancellation of today's hearing as according to her the respondent is out of the country, over the vehement objection of petitioner's counsel, the hearing today is cancelled and reset for the last time to August 20, 2003 at 9:30 o'clock (sic) in the morning.

In the event the respondent cannot present any evidence on the next scheduled hearing, on proper motion the case shall be submitted for

decision.

It appears that the presentation of respondent's evidence had been reset twice at the instance of defendant's counsel, the respondent is hereby directed to pay a postponement fee of Php100.00 and to show proof of compliance.

Both counsels are notified in open Court.

SO ORDERED.

Given in open Court this 25th day of July 2003 in the City of Manila, Philippines.^[17]

In the hearing on August 20, 2003, counsel for petitioner again requested that it be cancelled and reset due to the unavailability of witnesses. Petitioner was still in the U.S. taking care of her newborn grandchild, while Dr. Maria Cynthia Ramos-Leynes, who conducted a psychiatric evaluation on petitioner, was likewise out of the country, attending a convention. The motion was denied by the trial court, *viz.*:

In its Order of July 25, 2003, respondent was given today her last chance to present her evidence, with the warning that if no evidence is presented today, then the case shall be submitted for decision.

In today's hearing, respondent failed to present any evidence. As ordered and on motion of petitioner's counsel, the Court deems the respondent to have waived her right to present further evidence. In view thereof, she is hereby given fifteen (15) days from today within which to make an offer of her exhibits, copy of which she shall furnish the petitioner's counsel, who is hereby given the same period of time from receipt thereof within which to make his comments thereon. Within thirty (30) days from receipt of the Court's resolution on respondent's offer of exhibits, parties are directed to file their respective Memorandum of Authorities.

Thereafter, this case which is of 1996 vintage shall be submitted for the decision once again.

SO ORDERED.

Given in open Court, this 20th day of August, 2003 in Manila.^[18]

Petitioner moved to reconsider the August 20, 2003 Order. She claimed that her reasons for her absence during the hearings were justifiable and she had no intention to delay the proceedings of this case. Further, she argued that there were pending incidents yet to be resolved by the trial court, referring to her motion for judicial deposit of private respondent's separation benefits and private respondent's motion for judicial approval of the alleged voluntary agreement on the dissolution of the conjugal partnership of gains and partition of the conjugal properties.^[19]

This motion was denied in an Order dated December 12, 2003, which states:

This resolves respondent's Motion for Reconsideration on the August 20, 2003 Order directing her to submit her formal offer of exhibits after the Court deemed her to have waived her right to present further evidence for her failure to appear on the hearing which was previously set on said date by her counsel.

The record of the case reveals that respondent commenced the presentation of her evidence on August 21, 2002. The subsequent settings were all cancelled on motion of respondent's counsel for one reason or another.

On July 25, 2003, the hearing was again cancelled on motion of respondent's counsel and was reset for the last time to August 20, 2003 with the warning that if the respondent still fails to present evidence, the case shall be submitted for decision. On August 20, 2003, respondent failed to adduce her evidence.

The respondent's Motion for Reconsideration deserves a DENIAL.

It is more than apparent that the respondent was given all opportunity to adduce her evidence but she failed to do so. The Court had stretched its leniency to the limit but it is apparent the respondent is merely trifling with the Court's precious time.

Wherefore, respondent's Motion for Reconsideration is hereby DENIED. Respondent is given ten (10) days from notice to file her offer of exhibits.

SO ORDERED.

Manila, December 12, 2003.^[20]

Petitioner filed a petition for certiorari under Rule 65 of the Rules of Court before the Court of Appeals, seeking to annul the Orders dated August 20, 2003 and December 12, 2003, for having been issued with grave abuse of discretion. Upon motion of petitioner, the trial court held in abeyance its Order to file the formal offer of exhibits, pending resolution by the Court of Appeals of the petition for certiorari.

The Court of Appeals dismissed the petition. It ruled:

. . . A reading of the assailed Orders reveals that public respondent's denial of petitioner's motion for cancellation and resetting of the hearing for continuance of her testimony was for cause. We take notice of the several postponements of the hearings on the continuation of petitioner's testimony, mostly on account of petitioner's own urgings. Particularly, we find remarkably militating against petitioner's cause the Order dated 25 July 2003 where public respondent, maybe exasperated at petitioner's