

THIRD DIVISION

[G.R. No. 175581, March 28, 2008]

**REPUBLIC OF THE PHILIPPINES, Petitioner, vs. JOSE A. DAYOT,
Respondent.**

[G.R. No. 179474]

**FELISA TECSON-DAYOT, Petitioner, vs. JOSE A. DAYOT,
Respondent.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before us are two consolidated petitions. G.R. No. 175581 and G.R. No. 179474 are Petitions for Review under Rule 45 of the Rules of Court filed by the Republic of the Philippines and Felisa Tecson-Dayot (Felisa), respectively, both challenging the Amended Decision^[1] of the Court of Appeals, dated 7 November 2006, in CA-G.R. CV No. 68759, which declared the marriage between Jose Dayot (Jose) and Felisa void *ab initio*.

The records disclose that on 24 November 1986, Jose and Felisa were married at the Pasay City Hall. The marriage was solemnized by Rev. Tomas V. Atienza.^[2] In lieu of a marriage license, Jose and Felisa executed a sworn affidavit,^[3] also dated 24 November 1986, attesting that both of them had attained the age of maturity, and that being unmarried, they had lived together as husband and wife for at least five years.

On 7 July 1993, Jose filed a Complaint^[4] for Annulment and/or Declaration of Nullity of Marriage with the Regional Trial Court (RTC), Biñan, Laguna, Branch 25. He contended that his marriage with Felisa was a sham, as no marriage ceremony was celebrated between the parties; that he did not execute the sworn affidavit stating that he and Felisa had lived as husband and wife for at least five years; and that his consent to the marriage was secured through fraud.

In his Complaint, Jose gave his version of the events which led to his filing of the same. According to Jose, he was introduced to Felisa in 1986. Immediately thereafter, he came to live as a boarder in Felisa's house, the latter being his landlady. Some three weeks later, Felisa requested him to accompany her to the Pasay City Hall, ostensibly so she could claim a package sent to her by her brother from Saudi Arabia. At the Pasay City Hall, upon a pre-arranged signal from Felisa, a man bearing three folded pieces of paper approached them. They were told that Jose needed to sign the papers so that the package could be released to Felisa. He initially refused to do so. However, Felisa cajoled him, and told him that his refusal could get both of them killed by her brother who had learned about their relationship. Reluctantly, he signed the pieces of paper, and gave them to the man

who immediately left. It was in February 1987 when he discovered that he had contracted marriage with Felisa. He alleged that he saw a piece of paper lying on top of the table at the sala of Felisa's house. When he perused the same, he discovered that it was a copy of his marriage contract with Felisa. When he confronted Felisa, the latter feigned ignorance.

In opposing the Complaint, Felisa denied Jose's allegations and defended the validity of their marriage. She declared that they had maintained their relationship as man and wife absent the legality of marriage in the early part of 1980, but that she had deferred contracting marriage with him on account of their age difference.^[5] In her pre-trial brief, Felisa expounded that while her marriage to Jose was subsisting, the latter contracted marriage with a certain Rufina Pascual (Rufina) on 31 August 1990. On 3 June 1993, Felisa filed an action for bigamy against Jose. Subsequently, she filed an administrative complaint against Jose with the Office of the Ombudsman, since Jose and Rufina were both employees of the National Statistics and Coordinating Board.^[6] The Ombudsman found Jose administratively liable for disgraceful and immoral conduct, and meted out to him the penalty of suspension from service for one year without emolument.^[7]

On 26 July 2000, the RTC rendered a Decision^[8] dismissing the Complaint. It disposed:

WHEREFORE, after a careful evaluation and analysis of the evidence presented by both parties, this Court finds and so holds that the [C]omplaint does not deserve a favorable consideration. Accordingly, the above-entitled case is hereby ordered DISMISSED with costs against [Jose].^[9]

The RTC ruled that from the testimonies and evidence presented, the marriage celebrated between Jose and Felisa on 24 November 1986 was valid. It dismissed Jose's version of the story as implausible, and rationalized that:

Any person in his right frame of mind would easily suspect any attempt to make him or her sign a blank sheet of paper. [Jose] could have already detected that something was amiss, unusual, as they were at Pasay City Hall to get a package for [Felisa] but it [was] he who was made to sign the pieces of paper for the release of the said package. Another indirect suggestion that could have put him on guard was the fact that, by his own admission, [Felisa] told him that her brother would kill them if he will not sign the papers. And yet it took him, more or less, three months to "discover" that the pieces of paper that he signed was [sic] purportedly the marriage contract. [Jose] does not seem to be that ignorant, as perceived by this Court, to be "taken in for a ride" by [Felisa.]

[Jose's] claim that he did not consent to the marriage was belied by the fact that he acknowledged Felisa Tecson as his wife when he wrote [Felisa's] name in the duly notarized statement of assets and liabilities he filled up on May 12, 1988, one year after he discovered the marriage contract he is now claiming to be sham and false. [Jose], again, in his company I.D., wrote the name of [Felisa] as the person to be contacted in case of emergency. This Court does not believe that the only reason

why her name was written in his company I.D. was because he was residing there then. This is just but a lame excuse because if he really considers her not his lawfully wedded wife, he would have written instead the name of his sister.

When [Jose's] sister was put into the witness stand, under oath, she testified that she signed her name voluntarily as a witness to the marriage in the marriage certificate (T.S.N., page 25, November 29, 1996) and she further testified that the signature appearing over the name of Jose Dayot was the signature of his [sic] brother that he voluntarily affixed in the marriage contract (page 26 of T.S.N. taken on November 29, 1996), and when she was asked by the Honorable Court if indeed she believed that Felisa Tecson was really chosen by her brother she answered yes. The testimony of his sister all the more belied his claim that his consent was procured through fraud.^[10]

Moreover, on the matter of fraud, the RTC ruled that Jose's action had prescribed. It cited Article 87^[11] of the New Civil Code which requires that the action for annulment of marriage must be commenced by the injured party within four years after the discovery of the fraud. Thus:

That granting even for the sake of argument that his consent was obtained by [Felisa] through fraud, trickery and machinations, he could have filed an annulment or declaration of nullity of marriage at the earliest possible opportunity, the time when he discovered the alleged sham and false marriage contract. [Jose] did not take any action to void the marriage at the earliest instance. x x x.^[12]

Undeterred, Jose filed an appeal from the foregoing RTC Decision to the Court of Appeals. In a Decision dated 11 August 2005, the Court of Appeals found the appeal to be without merit. The dispositive portion of the appellate court's Decision reads:

WHEREFORE, the Decision appealed from is AFFIRMED.^[13]

The Court of Appeals applied the Civil Code to the marriage between Jose and Felisa as it was solemnized prior to the effectivity of the Family Code. The appellate court observed that the circumstances constituting fraud as a ground for annulment of marriage under Article 86^[14] of the Civil Code did not exist in the marriage between the parties. Further, it ruled that the action for annulment of marriage on the ground of fraud was filed beyond the prescriptive period provided by law. The Court of Appeals struck down Jose's appeal in the following manner:

Nonetheless, even if we consider that fraud or intimidation was employed on Jose in giving his consent to the marriage, the action for the annulment thereof had already prescribed. Article 87 (4) and (5) of the Civil Code provides that the action for annulment of marriage on the ground that the consent of a party was obtained by fraud, force or intimidation must be commenced by said party within four (4) years after the discovery of the fraud and within four (4) years from the time the force or intimidation ceased. Inasmuch as the fraud was allegedly discovered by Jose in February, 1987 then he had only until February, 1991 within which to file an action for annulment of marriage. However, it

was only on July 7, 1993 that Jose filed the complaint for annulment of his marriage to Felisa.^[15]

Likewise, the Court of Appeals did not accept Jose's assertion that his marriage to Felisa was void *ab initio* for lack of a marriage license. It ruled that the marriage was solemnized under Article 76^[16] of the Civil Code as one of exceptional character, with the parties executing an affidavit of marriage between man and woman who have lived together as husband and wife for at least five years. The Court of Appeals concluded that the falsity in the affidavit to the effect that Jose and Felisa had lived together as husband and wife for the period required by Article 76 did not affect the validity of the marriage, seeing that the solemnizing officer was misled by the statements contained therein. In this manner, the Court of Appeals gave credence to the good-faith reliance of the solemnizing officer over the falsity of the affidavit. The appellate court further noted that on the dorsal side of said affidavit of marriage, Rev. Tomas V. Atienza, the solemnizing officer, stated that he took steps to ascertain the ages and other qualifications of the contracting parties and found no legal impediment to their marriage. Finally, the Court of Appeals dismissed Jose's argument that neither he nor Felisa was a member of the sect to which Rev. Tomas V. Atienza belonged. According to the Court of Appeals, Article 56^[17] of the Civil Code did not require that either one of the contracting parties to the marriage must belong to the solemnizing officer's church or religious sect. The prescription was established only in Article 7^[18] of the Family Code which does not govern the parties' marriage.

Differing with the ruling of the Court of Appeals, Jose filed a Motion for Reconsideration thereof. His central opposition was that the requisites for the proper application of the exemption from a marriage license under Article 76 of the Civil Code were not fully attendant in the case at bar. In particular, Jose cited the legal condition that the man and the woman must have been living together as husband and wife for at least five years before the marriage. Essentially, he maintained that the affidavit of marital cohabitation executed by him and Felisa was false.

The Court of Appeals granted Jose's Motion for Reconsideration and reversed itself. Accordingly, it rendered an Amended Decision, dated 7 November 2006, the *fallo* of which reads:

WHEREFORE, the Decision dated August 11, 2005 is *RECALLED* and *SET ASIDE* and another one entered declaring the marriage between Jose A. Dayot and Felisa C. Tecson void *ab initio*.

Furnish a copy of this Amended Decision to the Local Civil Registrar of Pasay City.^[19]

In its Amended Decision, the Court of Appeals relied on the ruling of this Court in *Niñal v. Bayadog*,^[20] and reasoned that:

In *Niñal v. Bayadog*, where the contracting parties to a marriage solemnized without a marriage license on the basis of their affidavit that they had attained the age of majority, that being unmarried, they had lived together for at least five (5) years and that they desired to marry each other, the Supreme Court ruled as follows:

"x x x In other words, the five-year common-law cohabitation period, which is counted back from the date of celebration of marriage, should be a period of legal union had it not been for the absence of the marriage. This 5-year period should be the years immediately before the day of the marriage and it should be a period of cohabitation characterized by exclusivity - meaning no third party was involved at any time within the 5 years and continuity - that is unbroken. Otherwise, if that continuous 5-year cohabitation is computed without any distinction as to whether the parties were capacitated to marry each other during the entire five years, then the law would be sanctioning immorality and encouraging parties to have common law relationships and placing them on the same footing with those who lived faithfully with their spouse. Marriage being a special relationship must be respected as such and its requirements must be strictly observed. The presumption that a man and a woman deporting themselves as husband and wife is based on the approximation of the requirements of the law. The parties should not be afforded any excuse to not comply with every single requirement and later use the same missing element as a pre-conceived escape ground to nullify their marriage. There should be no exemption from securing a marriage license unless the circumstances clearly fall within the ambit of the exception. It should be noted that a license is required in order to notify the public that two persons are about to be united in matrimony and that anyone who is aware or has knowledge of any impediment to the union of the two shall make it known to the local civil registrar.

Article 80(3) of the Civil Code provides that a marriage solemnized without a marriage license, save marriages of exceptional character, shall be void from the beginning. Inasmuch as the marriage between Jose and Felisa is not covered by the exception to the requirement of a marriage license, it is, therefore, void *ab initio* because of the absence of a marriage license.^[21]

Felisa sought reconsideration of the Amended Decision, but to no avail. The appellate court rendered a Resolution^[22] dated 10 May 2007, denying Felisa's motion.

Meanwhile, the Republic of the Philippines, through the Office of the Solicitor General (OSG), filed a Petition for Review before this Court in G.R. No. 175581, praying that the Court of Appeals' Amended Decision dated 7 November 2006 be reversed and set aside for lack of merit, and that the marriage between Jose and Felisa be declared valid and subsisting. Felisa filed a separate Petition for Review, docketed as G.R. No. 179474, similarly assailing the appellate court's Amended Decision. On 1 August 2007, this Court resolved to consolidate the two Petitions in the interest of uniformity of the Court rulings in similar cases brought before it for resolution.^[23]

The Republic of the Philippines propounds the following arguments for the allowance of its Petition, to wit:

I

RESPONDENT FAILED TO OVERTHROW THE PRESUMPTION OF THE