

THIRD DIVISION

[G.R. NO. 167746, August 28, 2007]

RESTITUTO M. ALCANTARA, PETITIONER, VS. ROSITA A. ALCANTARA AND HON. COURT OF APPEALS, RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* filed by petitioner Restituto Alcantara assailing the Decision^[1] of the Court of Appeals dated 30 September 2004 in CA-G.R. CV No. 66724 denying petitioner's appeal and affirming the decision^[2] of the Regional Trial Court (RTC) of Makati City, Branch 143, in Civil Case No. 97-1325 dated 14 February 2000, dismissing his petition for annulment of marriage.

The antecedent facts are:

A petition for annulment of marriage^[3] was filed by petitioner against respondent Rosita A. Alcantara alleging that on 8 December 1982 he and respondent, without securing the required marriage license, went to the Manila City Hall for the purpose of looking for a person who could arrange a marriage for them. They met a person who, for a fee, arranged their wedding before a certain Rev. Aquilino Navarro, a Minister of the Gospel of the CDCC BR Chapel.^[4] They got married on the same day, 8 December 1982. Petitioner and respondent went through another marriage ceremony at the San Jose de Manuguit Church in Tondo, Manila, on 26 March 1983. The marriage was likewise celebrated without the parties securing a marriage license. The alleged marriage license, procured in Carmona, Cavite, appearing on the marriage contract, is a sham, as neither party was a resident of Carmona, and they never went to Carmona to apply for a license with the local civil registrar of the said place. On 14 October 1985, respondent gave birth to their child Rose Ann Alcantara. In 1988, they parted ways and lived separate lives. Petitioner prayed that after due hearing, judgment be issued declaring their marriage void and ordering the Civil Registrar to cancel the corresponding marriage contract^[5] and its entry on file.^[6]

Answering petitioner's petition for annulment of marriage, respondent asserts the validity of their marriage and maintains that there was a marriage license issued as evidenced by a certification from the Office of the Civil Registry of Carmona, Cavite. Contrary to petitioner's representation, respondent gave birth to their first child named Rose Ann Alcantara on 14 October 1985 and to another daughter named Rachel Ann Alcantara on 27 October 1992.^[7] Petitioner has a mistress with whom he has three children.^[8] Petitioner only filed the annulment of their marriage to evade prosecution for concubinage.^[9] Respondent, in fact, has filed a case for concubinage against petitioner before the Metropolitan Trial Court of Mandaluyong

City, Branch 60.^[10] Respondent prays that the petition for annulment of marriage be denied for lack of merit.

On 14 February 2000, the RTC of Makati City, Branch 143, rendered its Decision disposing as follows:

The foregoing considered, judgment is rendered as follows:

1. The Petition is dismissed for lack of merit;
2. Petitioner is ordered to pay respondent the sum of twenty thousand pesos (P20,000.00) per month as support for their two (2) children on the first five (5) days of each month; and
3. To pay the costs.^[11]

As earlier stated, the Court of Appeals rendered its Decision dismissing the petitioner's appeal. His Motion for Reconsideration was likewise denied in a resolution of the Court of Appeals dated 6 April 2005.^[12]

The Court of Appeals held that the marriage license of the parties is presumed to be regularly issued and petitioner had not presented any evidence to overcome the presumption. Moreover, the parties' marriage contract being a public document is a prima facie proof of the questioned marriage under Section 44, Rule 130 of the Rules of Court.^[13]

In his Petition before this Court, petitioner raises the following issues for resolution:

- a. The Honorable Court of Appeals committed a reversible error when it ruled that the Petition for Annulment has no legal and factual basis despite the evidence on record that there was no marriage license at the precise moment of the solemnization of the marriage.
- b. The Honorable Court of Appeals committed a reversible error when it gave weight to the Marriage License No. 7054133 despite the fact that the same was not identified and offered as evidence during the trial, and was not the Marriage license number appearing on the face of the marriage contract.
- c. The Honorable Court of Appeals committed a reversible error when it failed to apply the ruling laid down by this Honorable Court in the case of Sy vs. Court of Appeals. (G.R. No. 127263, 12 April 2000 [330 SCRA 550]).
- d. The Honorable Court of Appeals committed a reversible error when it failed to relax the observance of procedural rules to protect and promote the substantial rights of the party litigants.^[14]

We deny the petition.

Petitioner submits that at the precise time that his marriage with the respondent was celebrated, there was no marriage license because he and respondent just went to the Manila City Hall and dealt with a "fixer" who arranged everything for them.^[15] The wedding took place at the stairs in Manila City Hall and not in CDCC BR

Chapel where Rev. Aquilino Navarro who solemnized the marriage belongs.^[16] He and respondent did not go to Carmona, Cavite, to apply for a marriage license. Assuming a marriage license from Carmona, Cavite, was issued to them, neither he nor the respondent was a resident of the place. The certification of the Municipal Civil Registrar of Carmona, Cavite, cannot be given weight because the certification states that "Marriage License number 7054133 was issued in favor of Mr. Restituto Alcantara and Miss Rosita Almario"^[17] but their marriage contract bears the number 7054033 for their marriage license number.

The marriage involved herein having been solemnized on 8 December 1982, or prior to the effectivity of the Family Code, the applicable law to determine its validity is the Civil Code which was the law in effect at the time of its celebration.

A valid marriage license is a requisite of marriage under Article 53 of the Civil Code, the absence of which renders the marriage *void ab initio* pursuant to Article 80(3)^[18] in relation to Article 58 of the same Code.^[19]

Article 53 of the Civil Code^[20] which was the law applicable at the time of the marriage of the parties states:

Art. 53. No marriage shall be solemnized unless all these requisites are complied with:

- (1) Legal capacity of the contracting parties;
- (2) Their consent, freely given;
- (3) Authority of the person performing the marriage; and
- (4) A marriage license, except in a marriage of exceptional character.

The requirement and issuance of a marriage license is the State's demonstration of its involvement and participation in every marriage, in the maintenance of which the general public is interested.^[21]

Petitioner cannot insist on the absence of a marriage license to impugn the validity of his marriage. The cases where the court considered the absence of a marriage license as a ground for considering the marriage void are clear-cut.

In *Republic of the Philippines v. Court of Appeals*,^[22] the Local Civil Registrar issued a certification of due search and inability to find a record or entry to the effect that Marriage License No. 3196182 was issued to the parties. The Court held that the certification of "due search and inability to find" a record or entry as to the purported marriage license, issued by the Civil Registrar of Pasig, enjoys probative value, he being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license. Based on said certification, the Court held that there is absence of a marriage license that would render the marriage void *ab initio*.

In *Cariño v. Cariño*,^[23] the Court considered the marriage of therein petitioner Susan Nicdao and the deceased Santiago S. Carino as void *ab initio*. The records

reveal that the marriage contract of petitioner and the deceased bears no marriage license number and, as certified by the Local Civil Registrar of San Juan, Metro Manila, their office has no record of such marriage license. The court held that the certification issued by the local civil registrar is adequate to prove the non-issuance of the marriage license. Their marriage having been solemnized without the necessary marriage license and not being one of the marriages exempt from the marriage license requirement, the marriage of the petitioner and the deceased is undoubtedly void *ab initio*.

In *Sy v. Court of Appeals*,^[24] the marriage license was issued on 17 September 1974, almost one year after the ceremony took place on 15 November 1973. The Court held that the ineluctable conclusion is that the marriage was indeed contracted without a marriage license.

In all these cases, there was clearly an absence of a marriage license which rendered the marriage void.

Clearly, from these cases, it can be deduced that to be considered void on the ground of absence of a marriage license, the law requires that the absence of such marriage license must be apparent on the marriage contract, or at the very least, supported by a certification from the local civil registrar that no such marriage license was issued to the parties. In this case, the marriage contract between the petitioner and respondent reflects a marriage license number. A certification to this effect was also issued by the local civil registrar of Carmona, Cavite.^[25] The certification moreover is precise in that it specifically identified the parties to whom the marriage license was issued, namely Restituto Alcantara and Rosita Almario, further validating the fact that a license was in fact issued to the parties herein.

The certification of Municipal Civil Registrar Macrino L. Diaz of Carmona, Cavite, reads:

This is to certify that as per the registry Records of Marriage filed in this office, Marriage License No. 7054133 was issued in favor of Mr. Restituto Alcantara and Miss Rosita Almario on December 8, 1982.

This Certification is being issued upon the request of Mrs. Rosita A. Alcantara for whatever legal purpose or intents it may serve.^[26]

This certification enjoys the presumption that official duty has been regularly performed and the issuance of the marriage license was done in the regular conduct of official business.^[27] The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. However, the presumption prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption is rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and, in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.^[28] Significantly, apart from these, petitioner, by counsel, admitted that a marriage license was, indeed, issued in Carmona, Cavite.^[29]

Petitioner, in a faint attempt to demolish the probative value of the marriage license,