

THIRD DIVISION

[G.R. No. 173614, September 28, 2007]

LOLITA D. ENRICO, PETITIONER, VS. HEIRS OF SPS. EULOGIO B. MEDINACELI AND TRINIDAD CATLI-MEDINACELI, REPRESENTED BY VILMA M. ARTICULO, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

The instant Petition for *Certiorari* filed under Rule 65 of the 1997 Rules of Civil Procedure assails the Order,^[1] dated 3 May 2006 of the Regional Trial Court (RTC) of Aparri, Cagayan, Branch 6, in Civil Case No. II-4057, granting reconsideration of its Order,^[2] dated 11 October 2005, and reinstating respondents' Complaint for Declaration of Nullity of Marriage.

On 17 March 2005, respondents, heirs of Spouses Eulogio B. Medinaceli (Eulogio) and Trinidad Catli-Medinaceli (Trinidad) filed with the RTC, an action for declaration of nullity of marriage of Eulogio and petitioner Lolita D. Enrico. Substantially, the complaint alleged, *inter alia*, that Eulogio and Trinidad were married on 14 June 1962, in Lal-lo, Cagayan.^[3] They begot seven children, herein respondents, namely: Eduardo, Evelyn, Vilma, Mary Jane, Haizel, Michelle and Joseph Lloyd.^[4] On 1 May 2004, Trinidad died.^[5] On 26 August 2004, Eulogio married petitioner before the Municipal Mayor of Lal-lo, Cagayan.^[6] Six months later, or on 10 February 2005, Eulogio passed away.^[7]

In impugning petitioner's marriage to Eulogio, respondents averred that the same was entered into without the requisite marriage license. They argued that Article 34^[8] of the Family Code, which exempts a man and a woman who have been living together for at least five years without any legal impediment from securing a marriage license, was not applicable to petitioner and Eulogio because they could not have lived together under the circumstances required by said provision. Respondents posited that the marriage of Eulogio to Trinidad was dissolved only upon the latter's death, or on 1 May 2004, which was barely three months from the date of marriage of Eulogio to petitioner. Therefore, petitioner and Eulogio could not have lived together as husband and wife for at least five years. To further their cause, respondents raised the additional ground of lack of marriage ceremony due to Eulogio's serious illness which made its performance impossible.

In her Answer, petitioner maintained that she and Eulogio lived together as husband and wife under one roof for 21 years openly and publicly; hence, they were exempted from the requirement of a marriage license. From their union were born Elvin Enrico and Marco Enrico, all surnamed Medinaceli, on 28 October 1988 and 30 October 1991, respectively. She further contended that the marriage ceremony was performed in the Municipal Hall of Lal-lo, Cagayan, and solemnized by the Municipal

Mayor. As an affirmative defense, she sought the dismissal of the action on the ground that it is only the contracting parties while living who can file an action for declaration of nullity of marriage.

On 11 October 2005, the RTC issued an Order,^[9] granting the dismissal of the Complaint for lack of cause of action. It cited A.M. No. 02-11-10-SC,^[10] dated 7 March 2003, promulgated by the Supreme Court En Banc as basis. The RTC elucidated on its position in the following manner:

The Complaint should be dismissed.

1) Administrative Matter No. 02-11-10-SC promulgated by the Supreme Court which took effect on March 15, 2003 provides in Section 2, par. (a) ^[11] that a petition for Declaration of Absolute Nullity of a Void Marriage may be filed solely by the husband or the wife. **The language of this rule is plain and simple which states that such a petition may be filed solely by the husband or the wife. The rule is clear and unequivocal that only the husband or the wife may file the petition for Declaration of Absolute Nullity of a Void Marriage. The reading of this Court is that the right to bring such petition is exclusive and this right solely belongs to them.** Consequently, the heirs of the deceased spouse cannot substitute their late father in bringing the action to declare the marriage null and void.^[12] (Emphasis supplied.)

The dispositive portion of the Order, thus, reads:

WHEREFORE, [the] Motion to Dismiss raised as an affirmative defense in the answer is hereby GRANTED. Accordingly, the Complaint filed by the [respondents] is hereby DISMISSED with costs de officio. ^[13]

Respondents filed a Motion for Reconsideration thereof. Following the filing by petitioner of her Comment to the said motion, the RTC rendered an Order^[14] dated 3 May 2006, reversing its Order of 11 October 2005. Hence, the RTC reinstated the complaint on the ratiocination that the assailed Order ignored the ruling in *Niñal v. Bayadog*,^[15] which was on the authority for holding that the heirs of a deceased spouse have the standing to assail a void marriage even after the death of the latter. It held that Section 2(a) of A.M. No. 02-11-20-SC, which provides that a petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife, applies only where both parties to a void marriage are still living.^[16] Where one or both parties are deceased, the RTC held that the heirs may file a petition to declare the marriage void. The RTC expounded on its stance, thus:

The questioned Order disregarded the case of *Niñal vs. Bayadog*, 328 SCRA 122 (March 14, 2000) in which the Supreme Court, First Division, held that the heirs of a deceased person may file a petition for the declaration of his marriage after his death. The Order subject of this motion for reconsideration held that the case of *Niñal vs. Bayadog* is now superseded by the new Rule on Declaration of Absolute Nullity of Marriages (hereinafter referred to as the Rule) because the Supreme Court has rejected the case of *Niñal vs. Bayadog* by approving the Rule on Nullity of Void Marriages. The Order further held that it is only the

husband or the wife who is (sic) the only parties allowed to file an action for declaration of nullity of their marriage and such right is purely personal and is not transmissible upon the death of the parties.

It is admitted that there seems to be a conflict between the case of *Niñal vs. Bayadog* and Section 2(a) of the Rule. In view of this, the Court shall try to reconcile the case of *Niñal vs. Bayadog* and the Rule. To reconcile, the Court will have to determine [the] basic rights of the parties. The rights of the legitimate heirs of a person who entered into a void marriage will be prejudiced particularly with respect to their successional rights. During the lifetime of the parent[,], the heirs have only an inchoate right over the property of the said parents. Hence, during the lifetime of the parent, it would be proper that it should solely be the parent who should be allowed to file a petition to declare his marriage void. However, upon the death of the parent his heirs have already a vested right over whatever property left by the parent. Such vested right should not be frustrated by any rules of procedure such as the Rule. Rules of Procedure cannot repeal rights granted by substantive law. The heirs, then, have a legal standing in Court.

If the heirs are prohibited from questioning the void marriage entered by their parent, especially when the marriage is illegal and feloniously entered into, it will give premium to such union because the guilty parties will seldom, if ever at all, ask for the annulment of the marriage. Such void marriage will be given a semblance of validity if the heirs will not be allowed to file the petition after the death of the parent.

For these reasons, this Court believes that Sec. 2(a) of the Rules on Declaration of Absolute Nullity of Marriage is applicable only when both parties to a (sic) void marriage are still living. Upon the death of anyone of the guilty party to the void marriage, his heirs may file a petition to declare the the (sic) marriage void, but the Rule is not applicable as it was not filed b the husband or the wife. It shall be the ordinary rule of civil procedure which shall be applicable.^[17]

Perforce, the decretal portion of the RTC Order of 3 May 2006 states:

In view of the foregoing, the Court grants the motion for reconsideration dated October 31, 2005 and reinstate this case.^[18]

Aggrieved, petitioner filed a Motion for Reconsideration of the foregoing Order; however, on 1 June 2006, the RTC denied the said motion on the ground that no new matter was raised therein.^[19]

Hence, the instant Petition under Rule 65 of the 1997 Rules of Civil Procedure on the sole question of whether the case law as embodied in *Niñal*, or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, as specified in A.M. No. 02-11-10-SC of the Supreme Court applies to the case at bar.

At the outset, we note that petitioner took an abbreviated route to this Court, countenancing the hierarchy of courts.