

## FIRST DIVISION

[ G.R. NO. 165987, March 31, 2006 ]

**JOSHUA S. ALFELOR AND MARIA KATRINA S. ALFELOR,  
PETITIONERS, VS. JOSEFINA M. HALASAN, AND THE COURT OF  
APPEALS, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

This is a Petition for Review on *Certiorari* seeking to nullify the Decision <sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 74757, as well as the Resolution <sup>[2]</sup> dated June 28, 2004 denying the motion for reconsideration thereof.

On January 30, 1998, the children and heirs of the late spouses Telesforo and Cecilia Alfelor filed a Complaint for Partition <sup>[3]</sup> before the Regional Trial Court (RTC) of Davao City. Among the plaintiffs were Teresita Sorongon and her two children, Joshua and Maria Katrina, who claimed to be the surviving spouse of Jose Alfelor, one of the children of the deceased Alfelor Spouses. The case, docketed as Civil Case No. 26,047-98, was raffled to Branch 17 of said court.

On October 20, 1998, respondent Josefina H. Halasan filed a Motion for Intervention, <sup>[4]</sup> alleging as follows:

1. That she has legal interest in the matter of litigation in the above-entitled case for partition between plaintiffs and defendants;
2. That she is the surviving spouse and primary compulsory heir of Jose K. Alfelor, one of the children and compulsory heirs of Telesforo I. Alfelor whose intestate estate is subject to herein special proceedings for partition;
3. That herein intervenor had not received even a single centavo from the share of her late husband Jose K. Alfelor to the intestate estate of Telesforo K. Alfelor.

WHEREFORE, movant prays that she be allowed to intervene in this case and to submit attached Answer in Intervention. <sup>[5]</sup>

Josefina attached to said motion her Answer in Intervention, <sup>[6]</sup> claiming that *she* was the surviving spouse of Jose. Thus, the alleged second marriage to Teresita was void *ab initio* for having been contracted during the subsistence of a previous marriage. Josefina further alleged that Joshua and Maria Katrina were not her husband's children. Josefina prayed, among others, for the appointment of a special administrator to take charge of the estate. Josefina attached to her pleading a copy of the marriage contract <sup>[7]</sup> which indicated that she and Jose were married on

February 1, 1956.

Since petitioners opposed the motion, the judge set the motion for hearing. Josefina presented the marriage contract as well as the Reply-in- Intervention <sup>[8]</sup> filed by the heirs of the deceased, where Teresita declared that she knew "of the previous marriage of the late Jose K. Alfelor with that of the herein intervenor" on February 1, 1956. <sup>[9]</sup> However, Josefina did not appear in court.

Teresita testified before the RTC on February 13, 2002. <sup>[10]</sup> She narrated that she and the deceased were married in civil rites at Tagum City, Davao Province on February 12, 1966, and that they were subsequently married in religious rites at the Assumption Church on April 30, 1966. Among those listed as secondary sponsors were Josefina's own relatives' Atty. Margarito Halasan, her brother, and Valentino Halasan, her father. <sup>[11]</sup> While she did not know Josefina personally, she knew that her husband had been previously married to Josefina and that the two did not live together as husband and wife. She knew that Josefina left Jose in 1959. Jose's relatives consented to her (Teresita's) marriage with Jose because there had been no news of Josefina for almost ten years. In fact, a few months after the marriage, Josefina disappeared, and Jose even looked for her in Cebu, Bohol, and Manila. Despite his efforts, Jose failed to locate Josefina and her whereabouts remained unknown.

Teresita further revealed that Jose told her that he did not have his marriage to Josefina annulled because he believed in good faith that he had the right to remarry, not having seen her for more than seven years. This opinion was shared by Jose's sister who was a judge. Teresita also declared that she met Josefina in 2001, and that the latter narrated that she had been married three times, was now happily married to an Englishman and residing in the United States.

On September 13, 2002, Judge Renato A. Fuentes issued an Order <sup>[12]</sup> denying the motion and dismissed her complaint, ruling that respondent was not able to prove her claim. The trial court pointed out that the intervenor failed to appear to testify in court to substantiate her claim. Moreover, no witness was presented to identify the marriage contract as to the existence of an original copy of the document or any public officer who had custody thereof. According to the court, the determinative factor in this case was the good faith of Teresita in contracting the second marriage with the late Jose Alfelor, as she had no knowledge that Jose had been previously married. Thus, the evidence of the intervenor did not satisfy the quantum of proof required to allow the intervention. Citing *Sarmiento v. Court of Appeals*, <sup>[13]</sup> the RTC ruled that while Josefina submitted a machine copy of the marriage contract, the lack of its identification and the accompanying testimony on its execution and ceremonial manifestation or formalities required by law could not be equated to proof of its validity and legality.

The trial court likewise declared that Teresita and her children, Joshua and Maria Katrina, were the legal and legitimate heirs of the late Jose K. Alfelor, considering that the latter referred to them as his children in his Statement of Assets and Liabilities, among others. Moreover, the oppositor did not present evidence to dispute the same. The dispositive portion of the Order reads:

**WHEREFORE**, finding the evidence of intervenor, Josephina (*sic*) Halasan through counsel, not sufficient to prove a preponderance of evidence and compliance with the basic rules of evidence to proved (*sic*) the competent and relevant issues of the complaint-in-intervention, as legal heir of the deceased Jose K. Alfelor, the complaint (*sic*) of intervention is ordered dismiss (*sic*) with cost[s] de oficio.

On the other hand, finding the evidence by Teresita Sorongon Aleflor, oppositor through counsel sufficient to proved (*sic*) the requirement of the Rules of Evidence, in accordance with duly supporting and prevailing jurisprudence, oppositor, Teresita Sorongon Alfelor and her children, Joshua S. Alfelor and Maria Katrina S. Alfelor, are declared legal and legitimate Heirs of the late Jose K. Alfelor, for all purposes, to entitled (*sic*) them, in the intestate estate of the latter in accordance to (*sic*) law, of all properties in his name and/or maybe entitled to any testate or intestate proceedings of his predecessor-[in]-interest, and to receive such inheritance, they are legally entitled, along with the other heirs, as the case maybe (*sic*). [14]

Josefina filed a Motion for Reconsideration, [15] insisting that under Section 4, Rule 129 of the Revised Rules of Court, an admission need not be proved. She pointed out that Teresita admitted in her Reply in Intervention dated February 22, 1999 that she (Teresita) knew of Jose's previous marriage to her. Teresita also admitted in her testimony that she knew of the previous marriage. [16] Since the existence of the first marriage was proven in accordance with the basic rules of evidence, pursuant to paragraph 4, Article 80 of the New Civil Code, the second marriage was void from the beginning. Moreover, contrary to the ruling of the trial court, Article 83 of the Civil Code provides that the person entitled to claim good faith is the "spouse present" (thus, the deceased Jose and not Teresita). Josefina concluded that if the validity of the second marriage were to be upheld, and at the same time admit the existence of the second marriage, an absurd situation would arise: the late Jose Alfelor would then be survived by two legitimate spouses.

The trial court denied the motion in its Order [17] dated October 30, 2002.

Aggrieved, Josefina filed a Petition for *Certiorari* under Rule 65 before the CA, alleging that the RTC acted with grave abuse of discretion amounting to lack or in excess of jurisdiction in declaring that she failed to prove the fact of her marriage to Jose, in considering the bigamous marriage valid and declaring the second wife as legal heir of the deceased. Josefina also stressed that Articles 80 and 83 of the New Civil Code provide for a presumption of law that any subsequent marriage is null and void. She insisted that no evidence was presented to prove that she had been absent for seven consecutive years before the second marriage.

In their comment, Teresita and her children countered that anyone who claims to be the legal wife must show proof thereof. They pointed out that Josefina failed to present any of the following to prove the fact of the previous marriage: the testimony of a witness to the matrimony, the couple's public and open cohabitation as husband and wife after the alleged wedding; the birth and the baptismal certificates of children during such union, and other subsequent documents mentioning such union. Regarding Teresita's alleged admission of the first marriage

in her Reply in Intervention dated February 22, 1999, petitioners claim that it was mere hearsay, without probative value, as she heard of the alleged prior marriage of decedent Jose Alfelor to Josefina only from other persons, not based on her own personal knowledge. They also pointed out that Josefina did not dispute the fact of having left and abandoned Jose after their alleged marriage in 1956, and only appeared for the first time in 1988 during the filing of the case for partition of the latter's share in his parents' estate. They further pointed out that Josefina does not even use the surname of the deceased Alfelor. Contrary to the allegations of Josefina, paragraph 2, Article 83 of the Civil Code, now Article 41 of the Family Code, is applicable. Moreover, her inaction all this time brought to question her claim that she had not been heard of for more than seven years.

In its Decision dated November 5, 2003, the CA reversed the ruling of the trial court. It held that Teresita had already admitted (both verbally and in writing) that Josefina had been married to the deceased, and under Section 4, Rule 129 of the Revised Rules of Evidence, a judicial admission no longer requires proof. Consequently, there was no need to prove and establish the fact that Josefa was married to the decedent. Citing *Santiago v. De los Santos*, <sup>[18]</sup> the appellate court ruled that an admission made in a pleading cannot be controverted by the party making such admission, and is conclusive as to such party; and all contrary or inconsistent proofs submitted by the party who made the admission should be ignored whether objection is interposed by the other party or not. The CA concluded that the trial court thus gravely abused its discretion in ordering the dismissal of Josefina's Complaint-in-Intervention. The dispositive portion of the decision reads:

WHEREFORE, foregoing premises considered, the assailed orders, having been issued with grave abuse of discretion are hereby **ANNULLED and SET ASIDE**. Resultantly, the Regional Trial Court, Branch 17, Davao City, is ordered to admit petitioner's complaint in intervention and to forthwith conduct the proper proceeding with dispatch. No costs.

SO ORDERED. <sup>[19]</sup>

Thus, Joshua and Maria Katrina Alfelor filed the instant petition, assailing the ruling of the appellate court.

Petitioners limit the issue to the determination of whether or not the CA erred in ordering the admission of private respondent's intervention in S.P. Civil Case No. 26,047-98. They insist that in setting aside the Orders of the trial court, dated September 13, 2002 and October 30, 2002, the CA completely disregarded the hearsay rule. They aver that while Section 4 of Rule 129 of the Revised Rules of Evidence provides that an admission does not require proof, such admission may be contradicted by showing that it was made through palpable mistake. Moreover, Teresita's statement in the Reply-in-Intervention dated February 22, 1999, admitting knowledge of the alleged first marriage, is without probative value for being hearsay.

Private respondent, for her part, reiterates that the matters involved in this case fall under Section 4, Rule 129 of the Revised Rules of Evidence, and thus qualify as a judicial admission which does not require proof. Consequently, the CA did not commit any palpable error when it ruled in her favor.